

***United States Court of Appeals
for the Second Circuit***



APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 76-3004

NATHAN KEVELSON,

Petitioner,

-vs.-

HON. JACK WEINSTEIN, UNITED
STATES DISTRICT JUDGE, EASTERN
DISTRICT OF NEW YORK,

Respondent.

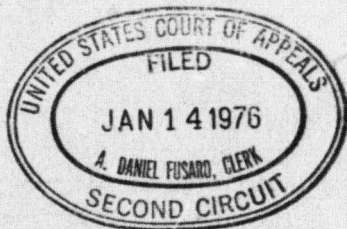
On Petition For Writ Of Mandamus

PETITIONER'S APPENDIX

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Attorney for Petitioner
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New York, New York 10022
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Of Counsel:

HENRY J. BOITEL
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PAGINATION AS IN ORIGINAL COPY

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CRIMINAL DOCKET

作者单位：中国疾病预防控制中心 性病艾滋病预防控制中心

THE UNITED STATES

AL KEVELSON and
NATHAN KEVELSON

ATTORNEYS

For U.S.: AUSA BOYD

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PL 1-3200
For Defendant: Joseph E. Brill
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293-6150 deft. AL KEVELSON
Raymond Grunewald

Did file false tax returns with Internal Revenue Service, etc.

[illegible]

DATE	PROCEEDINGS
5-10-74	Before WEINSTEIN J - Indictment filed.
5-21-74	Before COSTANTINO, J.- Case called- Defts not present-Case adjd to 5-29-74 at 10:00 A.M. for pleading
5-29-74	Before COSTANTINO, J.- Case called- defts and counsel - Defts arraigned and each deft enters a plea of not guilty- All motions by 9-6-74 and case set down for 9-6-74 for all purposes
5-29-74	Notice of appearance filed
6-20-74	Notice of Motion filed ret. June 28, 1974, for extending bail limits of deft NATHAN KEVELSON to permit him to travel to Europe during the period beginning June 30, 1974 and to return to New York on July 21, 1974 etc.
6-28-74	Before COSTANTINO, J.- Case called- Motion for an order extending the bail limits of the deft Nathan Kevelson etc is withdrawn

DATE	PROCEEDINGS
7-12-74	Before COSTANTINO, J. - Case called- Adj'd to 2-3-75 at 10:00 A.M. for trial
7-20-74	Notice of Motion filed to dismiss indictment for denial of fundamental standards of fair play, etc (Deft Al Kevelson) Judge has papers.
9-20-74	Notice of Motion filed with Memorandum of Law in support for dismissal of the Indictment for denial of due process of law etc (Nathan Kevelson)
9-20-74	Notice of Motion filed with Memorandum of Law in support for dismissal of the indictment because of violation of deft Nathan Kevelson's fundamental Fifth Amendment, etc. (Judge has papers)
10/31/74	Govt's memorandum in opposition to defts motion for dismissal filed
11-18-74	Defts Memorandum in rebuttal to Govt's motion to dismiss the indictment and to suppress evidence filed.
12-2-74	Govts Notice of Readiness for Trial filed
2/3/75	Before COSTANTINO, J. - Case called-adj'd to 9/22/75 at 10:00 A.M. for trial
5-30-75	Before COSTANTINO J - case called - defts & atty R.Grunewald present - adj'd to June 20, 1975 for report
6/20/75	Before COSTANTINO, J. - Case called- adj'd to 7/11/75 at 10:00 A.M. for all purposes
7/11/75	Before COSTANTINO, J. - Case called- Respectfully referred to Judge Weinstein
7/11/75	Notice of appearance filed (NATHAN KEVELSON)
8/8-18-75	Notice of appearance filed (NATHAN KEVELSON)
8-18-75	Before WEINSTEIN J - case called - defts & attys present - Raymond Grunewald for deft/Kevelson and Hyman Zoloto for deft Nathan Kevelson - pre trial conference held and concluded - Jan. 19, 1976 at 9:30 am to mark documents, etc. All summaries & charts to be used by experts to be marked at that time - Motions adj'd to Jan. 19, 1976 at 9:30 am - atty Hyman Zoloto is now the attorney for deft NATHAN KEVELSON - trial set for Jan. 26, 1976 at 10:00 am.
8-25-75	By WEINSTEIN J - Order filed that Hyman L. Zoloto be substituted as counsel for deft Nathan Kevelson in place of Michael Gillen, Esq.
12/4/75	Petition for continuance of trial date filed (N. KEVELSON) ret/ 12/5/75
12-9-75	Before WEINSTEIN J - case called - defts not present - case adj'd to Dec. 11, 1975 at 9:15 am (petition for severance) counsel present.
12-10-75	Memorandum filed received from Chambers indicating that case to be reassigned as Judge Constantino having asserted a disqualification, etc. Picked at random procedure and reassigned to Judge Weinstein.
12-11/75	Before WEINSTEIN, J. - Case called- deft Nathan Kevelson and counsel present deft's motion for severance argued and denied- So Ordered

UNITED STATES OF AMERICA

INDICTMENT

-against-

AL KEVELSON and
HARSH KEVELSON,Cr. No. 74CC 370
(T.26, U.S.C., §7201 and
T.18, U.S.C., §2)

Defendants.

Constantino, J.

THE GRAND JURY CHARGES:

5-10-74

COUNT ONE

On or about the 15th day of April 1970, within the Eastern District of New York, the defendant, AL KEVELSON, a resident of Brooklyn, New York who during the calendar year 1969 was married, and aided and abetted by the Defendant, HARSH KEVELSON, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1969, by making and causing to be made false documents and false entries in records, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, a false and fraudulent income tax return on behalf of himself and his said wife, which return was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of \$26,166.03 and that the amount of tax due and owing thereon was the sum of \$7,863.51, whereas, as he then and there well knew, their joint taxable income for the said calendar year was the sum of \$53,756.03, upon which said taxable income there was owing to the United States of America an income tax of \$20,589.79.

(Title 26, United States Code, §7201; Title 18, United States Code, §2)

On or about the 15th day of December 1970, within the Eastern District of New York, the defendant, AL KEVELSON, and the defendant, NATHAN KEVELSON, who were the Vice President and President, respectively, of the Empire Ace Insulation Manufacturing Corporation, did wilfully and knowingly attempt to evade and defeat a large part of the income taxes due and owing by the said corporation to the United States of America for the fiscal year ended September 30, 1970, by making and causing to be made false documents and false entries in records, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, a false and fraudulent income tax return, which return was filed with the Internal Revenue Service, wherein they alleged that the taxable income of the corporation for the said fiscal year was the sum of minus \$93,397.40 upon which there was no tax due thereon, whereas as they then and there well knew, the taxable income of the corporation for the said calendar year was the sum of \$663,136.27, upon which taxable income the corporation owed to the United States of America a total tax of \$327,395.98. (Title 26, United States Code, §7201; Title 18, United States Code, §2)

COUNT THREE

On or about the 15th day of December 1970, within the Eastern District of New York, the defendant, AL KEVELSON, a resident of Brooklyn, New York, did wilfully and knowingly aid and assist in, and counsel, procure, and advise the preparation and presentation to the Internal Revenue Service, of a corporate income tax return of the Empire Ace Insulation Manufacturing Corporation for the fiscal year ended September 30, 1970, which

was false and fraudulent as to a material matter, in that it represented that the said Empire Ace Insulation Manufacturing Corporation was entitled under the provisions of the Internal Revenue laws to claim deductions for the purchases of materials in the total sum of \$3,190,740.64, whereas, as the said defendant then and there well knew and believed, the total deductions which the said Empire Ace Insulation Manufacturing Corporation were entitled to claim for said calendar year were in the total sum of \$2,424,216.33.

756,993.56

(Title 26, United States Code, 57206(2))

COUNT FOUR

On or about the 15th day of April 1971, within the Eastern District of New York, the defendant, AL KAMINSKY, a resident of Brooklyn, New York was during the calendar year 1970 was married, and aided and abetted by the defendant, MIRIAM KAMINSKY, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1970, by making and causing to be made false documents and false entries in records, by preparing and causing to be prepared, by signing, and causing to be signed, and by mailing and causing to be mailed, a false and fraudulent income tax return on behalf of himself and his said wife, which return was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of \$31,376.33 and that the amount of tax due and owing thereon was the sum of \$8,627.14, whereas,

as he then and there well knew, their joint taxable income for the said calendar year was the sum of \$673,719.98, upon which said taxable income there was owing to the United States of America an income tax of \$430,247.84.

(Title 26, United States Code, §7201; Title 18, United States Code, §2)

COUNT FIVE

On or about the 17th day of March 1973, within the Eastern District of New York, the defendant, AL KEVELSON, and the defendant, HAYMAN KEVELSON, who were the Vice President and President, respectively, of Empire Ace Insulation Manufacturing Corporation, did wilfully and knowingly attempt to evade and defeat a large part of the income taxes due and owing by the said corporation to the United States of America for the fiscal year ended September 30, 1971, by making and causing to be made false documents and false entries in records, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, a false and fraudulent income tax return, which return was filed with the Internal Revenue Service, wherein they alleged that the taxable income of the corporation for the said fiscal year was the sum of \$49,315.64 and that the total amount of tax due thereon was the sum of \$12,031.53, whereas as they then and there well knew, the taxable income of the corporation for the said calendar year was the sum of \$446,093.43, upon which taxable income the corporation owed to the United States of America a total tax of \$297,531.67.

(Title 26, United States Code, §7201; Title 18, United States Code §2)

COUNT SIX

On or about the 17th day of March 1972, within the Eastern District of New York, the defendant, AL KEVELSON, a resident of Brooklyn, New York, did wilfully and knowingly make and subscribe a corporate income tax return of the Empire Ace Insulation Manufacturing Corporation, which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said corporate income tax return he did not believe to be true and correct as to every material matter in that the said corporate income tax return reflected deductions for the purchase of materials in the sum of \$3,455,100.20, whereas, as he then and there well knew and believed the Empire Ace Insulation Manufacturing Corporation was only entitled to claim deductions for the purchase of materials for said fiscal year in the amount of \$3,009,412.40.

(Title 26, United States Code, 57206(1))

365 687.50

COUNT SEVEN

On or about the 17th day of March, 1972, within the Eastern District of New York, the defendant, NATHAN KEVELSON, a resident of Brooklyn, New York, did wilfully and knowingly aid and assist in, and counsel, procure, and advise the preparation and presentation to the Internal Revenue Service, of a corporate income tax return of the Empire Ace Insulation Manufacturing Corporation for the fiscal year ended September 30, 1971, which was false and fraudulent as to a material matter, in that it represented that the said Empire Ace Insulation Manufacturing

Corporation was entitled under the provisions of the Internal Revenue laws to claim deductions in the total sum of \$3,455,100.20, whereas, as the said defendant then and there well knew and believed, the total deductions which the said Empire Ace Insulation Manufacturing Corporation was entitled to claim for said calendar year were in the total sum of \$3,009,412.40.

(Title 26, United States Code, 57206(2))

COUNT EIGHT

On or about the 15th day of April 1972, within the Eastern District of New York, the defendant, AL KEVELSON, a resident of Brooklyn, New York who during the calendar year 1971 was married, and aided and abetted by the defendant, NATHAN KEVELSON, did wilfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1971, by making and causing to be made false documents and false entries in records, by preparing and causing to be prepared, by signing and causing to be signed, and by mailing and causing to be mailed, a false and fraudulent income tax return on behalf of himself and his said wife, which return was filed with the Internal Revenue Service, wherein it was stated that their taxable income for said calendar year was the sum of \$23,737.64 and that the amount of tax due and owing thereon was the sum of \$5,540.97, whereas, as he then and there well knew, their joint taxable income for the said calendar year was the sum of \$409,979.94, upon which said taxable income there was owing to the United States of America an income tax of \$245,203.40.

(Title 26, United States Code, 57201; Title 18, United States Code, 52)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

74 CR. 370 (JBW)

-against-

PETITION FOR
CONTINUANCE

AL KEVELSON and NATHAN KEVELSON,

Defendants.

-----X

COMES NOW the petitioner, HYMAN L. ZOLOTO, the attorney for the defendant, NATHAN KEVELSON, and respectfully shows to this Court:

1. I was retained by the defendant, Nathan Kevelson, on the 13th day of August 1975; that prior thereto, said defendant was represented by the late Joseph E. Brill. I have been informed that the late Mr. Brill was ill for a great length of time while he was representing this defendant, and ultimately died on or about May 17, 1975 of cancer. The file indicates that the decedent, Joseph E. Brill, had considered moving for a medical severance and/or continuance on behalf of the defendant, Nathan Kevelson. I have been informed that, as a result of his illness and ultimate death, he did not and could not pursue this motion.

2. I decided, amongst other things, immediately after I was retained, to move for a medical severance on behalf of the

defendant, Nathan Kevelson. I informed Mr. John Caden, the Assistant United States Attorney representing the Government in this matter, at my very first conference after meeting him, that as soon as I had completed certain prior commitments that I had, one of the first items on my agenda was to make a motion on behalf of Nathan Kevelson for a continuance and/or a severance based upon his acute heart ailment.

3. I met Mr. Caden for the first time when this case appeared on the calendar before Your Honor for conference on the 18th day of August 1975, and immediately after the conference with your Honor, I, together with Stuart R. Shaw, Esq., an associate from my office, met with Mr. Caden in his office, whereat I advised him about the bringing of this motion and further discussed with him in detail, the doctors and cardiac specialists that I intended to use, and that I was awaiting their examinations and reports in order to be able to perfect this motion. I assured Mr. Caden that I would submit to him, and to the Court, all such physicians' reports in support of my motion.

4. Further, on the 19th day of September, 1975, at a conference with me and David G. Trager, the United States Attorney, together with Stuart R. Shaw of my office and Mr. Raymond Gruncwald, the attorney for co-defendant Al Kevelson, I reiterated my position to all those present. I promised to proceed with reasonable dispatch so that none of the parties would be inconvenienced.

5. From August 13, 1975 up until October 13, 1975, I attempted to have my client examined by all the physicians and to obtain reports from them regarding his condition. Unfortunately, I became seriously ill and on October 13, 1975, was admitted to Doctors Hospital suffering from an acute case of pneumonia. I developed a coronary condition simultaneously therewith. I remained at Doctors Hospital until November 15, 1975, and thereafter was confined to my home. I was finally permitted by my physicians to go back to my duties for two hours per diem on November 24, 1975.

6. My office had received the reports from all the physicians while I was in the hospital. I called John Caden at once upon my return to work and offered to immediately send him the reports in order that he and/or his office would not be unduly delayed. He advised me that this would not be necessary but that I should proceed to make the motion and I promised to do so as expeditiously as I could under all of the circumstances. At the present time, I am permitted to work only three and a half hours per diem. I have prepared these papers as best I could within the time allotted to me for work.

7. I have been advised that I can proceed with this case and the practice of law since I did not suffer any permanent heart damage as a result of my coronary and because of the good progress that I have been making. I represent to this

Court that I can adequately represent the defendant in this matter.

8. I have had occasion to interview Dr. Benjamin Rosenberg and I have received reports from him in connection with the preparation of this motion. Stuart R. Shaw has spoken to Dr. Simon Dack and Dr. Charles A. Poindexter in regard to the instant motion while I was confined to the hospital. I thereafter had occasion to speak to the aforementioned doctors. I am submitting the reports of all three physicians in lieu of their affidavits, in the interest of saving time and in bringing this motion as expeditiously as I possibly can under the circumstances, pursuant to the restrictions from my doctors as to my working capability at the present time. This procedure is instituted in the interest of speed and to make it easier for me to prepare this motion. I, as an officer of the Court, represent the truth and accuracy thereof, and that these are the reports which were submitted to me by all three physicians. The reports of Dr. Benjamin Rosenberg, the original physician who treated Nathan Kevelson for his heart condition, are hereto attached marked Exhibits A, B and C. I have been informed that Mr. Kevelson has an appointment for further treatment with Dr. Rosenberg on December 16, 1975 and should a further report be required by the Court and/or the U. S. Attorney's Office, I represent to produce the same.

9. I am also submitting herewith medical reports from Dr. Simon Dack, marked Exhibits D and E. Dr. Dack examined and treated the defendant after being called in as a consultant by Dr. Rosenberg because of the defendant's serious medical condition.

10. It was my intention from the inception that in bringing this motion the defendant should be examined by another physician of eminence in order to obtain an independent opinion. I arranged for Dr. Charles A. Poindexter to examine Mr. Kevelson and disclosed this to Mr. Trager and Mr. Caden prior to the date set for the examination. This appointment with Dr. Poindexter was arranged while I was confined to Doctors Hospital. Dr. Poindexter examined Mr. Kevelson and has submitted his findings and report, a copy of which is hereto attached, marked Exhibit F.

11. I respectfully submit that it is important and relevant for this Court and the United States Attorney's Office to be apprised of the expertize and qualifications of the doctors who have submitted the aforementioned reports.

(a) With respect to Dr. Charles A. Poindexter: Dr. Poindexter is Professor Emeritus of Medicine, New York University Post-graduate Medical School; Fellow, American Board of Internal Medicine, with sub-specialty of Cardiovascular Disease since 1937; Chief of the Department of Cardiology at the Post-graduate Medical School for 30 years; Previous Resident of the New York Heart Association; Member of the American College of Physicians; Member of the Clinical Federation for Research; Fellow of the American College of Cardiologists; Chief of the Cardiology Department of New York University Hospital; Attending physician, at Doctors Hospital; Consulting Cardiologist at Bellevue Hospital,

St. Francis of Port Jervis, Good Samaritan Hospital, Tuxedo Park Memorial Hospital, Phelps Memorial Hospital; Assistant Professor of Clinical Medicine at the New York University Post-graduate Medical School.

(b) With respect to Dr. Simon Dack, of whom Dr. Poin-dexter has said "is one of the most eminent cardiologists in this country", he is a Fellow of the American College of Physicians; Fellow of the American College of Cardiologists; Fellow of the American College of Chest Physicians; Chief of the Cardiology Department at Mt. Sinai Hospital; Attending physician at Metropolitan Hospital, Fifth & Flower Hospital and Doctors Hospital. He is also a lecturer in Cardiology at Columbia University; Associate Professor of Medicine at New York Medical College; Associate Clinical Professor of Medicine at Mt. Sinai School of Medicine; Chief of the Cardiac Clinic at Metropolitan Hospital. He has been the recipient of the Distinguished Fellow Award of the American College of Cardiology in 1969, and a Presidential Citation in 1971. Additionally, he is a Fellow A.C.P. of the American Medical Writers Association, American College of Cardiology; a member of the New York Academy of Sciences, American Heart Association Council on Clinical Cardiology, American Federation for Clinical Research. He has also contributed to various journals and is the Editor of the American Journal of Cardiology.

(c) With respect to Dr. Benjamin Rosenberg, he is a Fellow of the American College of Physicians; Attending Physician at Maimonides Hospital, Kings County Hospital; Staff Physician at Kings Highway Hospital. He is also the Chief of the Hypertension Clinic at Maimonides Hospital; an instructor in medicine at the Downstate Medical School (affiliated with Kings County Hospital); Staff Physician in the Department of Medicine at Caledonian Hospital. Additionally, he has served with distinction on Excerpta Medica, and has published at least 17 medical papers on the subject and related areas to date.

12. I know of my own knowledge that both Doctor Poindexter and Dr. Dack have been qualified and have testified as experts on heart disease before the Federal Courts in the Eastern District and Southern District of New York in the past. Dr. Poindexter has testified for the government in the Eastern and Southern Districts of New York. I have also been advised that Dr. Dack is presently engaged in authoring a book on the subject of heart diseases and heart ailments.

13. My office has obtained the complete medical file on Nathan Kevelson from Maimonides Hospital, including photo-stats of all cardiograms taken. All of the physicians utilized said records in making their findings on Nathan Kevelson in addition to the electrocardiograms taken by each individual specialist. These medical records are being submitted herewith as Exhibit G.

14. Most respectfully, all three doctors who examined and/or treated Mr. Kevelson reached the same conclusion about his state of health and his ability to stand trial. All of the records and documents are submitted as part of this motion to substantiate such conclusion,

15. Prior to my becoming ill, and at the present time, it has been impossible for me to prepare this case with respect to the facts. Mr. Shaw has reported the same conclusion to me in his meeting with Mr. Kevelson while I was ill. Mr. Kevelson is constantly complaining of heart pain, particularly when under tension and stress and, unquestionably, he is unable to concentrate on the facts to be discussed which are necessary in order for me to prepare for his defense. The defendant does not perform any work, labor or services in connection with his business and has received no compensation since July 1974.

WHEREFORE, counsel respectfully prays that this Honorable Court grant the relief requested herein ordering a continuance or, in the alternative, a medical severance be granted to Nathan Kevelson, based on the fact that he is medically unable to stand trial because of a severe heart ailment, and for such other and further relief as to this Court may seem necessary, proper, and in the interests of justice.

New York, New York
December 3, 1974

Respectfully Submitted,

HYMAN L. ZOLOTO, Attorney for
Defendant Nathan Kevelson
600 Madison Avenue
New York, New York 10022
(212) 751-5200

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA,

- against -

74 CR 370 (JBW)

AL KEVELSON and NATHAN KEVELSON,

Defendants.

AFFIDAVIT

-----X

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

STUART R. SHAW, being duly sworn, deposes and says:

1. I am an attorney duly admitted and licensed to practice before the United States District Court for the Eastern District of New York, and am admitted and licensed to practice before the Bar of the State of New York.

2. I am associated with Hyman L. Zoloto, and in relation thereto, I arranged for Nathan Kevelson, pursuant to Mr. Zoloto's instructions, to be examined by Dr. Charles A. Poindexter, and was present at the doctor's office during this examination for approximately one and a half hours.

3. I have been informed that Nathan Kevelson is also treated by Dr. Carlos Fuhrkin as the result of an implantation of a pacemaker in his chest and is required to contact Dr. Fuhrkin's office at least once a week for his pacemaker to be checked.

4. I have examined the card which Mr. Kevelson is required to carry with him at all times. This card explains his severe medical condition and what is to be done in the event of an emergency. I would also like to point out that I made the following lay observations in regard to Mr. Kevelson's physical condition:

I personally accompanied Nathan Kevelson to Dr. Poindexter's office. We only had to walk four blocks from Mr. Zoloto's office, where Mr. Kevelson met with me, to Dr. Poindexter's office. It was impossible for Mr. Kevelson to walk more than a couple of hundred feet without stopping to catch his breath and rest. I observed the identical physical ailment of Mr. Kevelson after Dr. Poindexter had completed the examination. I accompanied Mr. Kevelson from Dr. Poindexter's office to 57th Street and Park Avenue [a four block walk], where his son-in-law was to pick him up and drive him home. What would have been but a five-minute walk for me, took more than three times that amount of time to complete because of the fact that Mr. Kevelson had to stop several times, on each block, to catch his breath and rest.

I personally attempted to interview Mr. Kevelson in regard to the facts of his case, while Mr. Zoloto was ill in the hospital. I have also attended meetings and conferences between Mr. Zoloto and Mr. Nathan Kevelson. It was literally impossible for counsel to adequately prepare Mr. Kevelson for

trial because of the fact that Mr. Kevelson's medical condition is so severe, that it is difficult for counsel to pose questions to the defendant on the facts for fear that he might not be able to survive the rigors of such an examination.

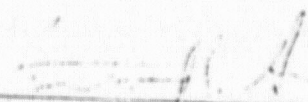
5. I was present with Mr. Zoloto at the conference before this Honorable Court on August 13, 1975, and I met with Mr. Caden and Mr. Zoloto at Mr. Caden's office thereafter. Mr. Caden was then informed about the motion which Mr. Zoloto intended to make regarding a medical severance on Nathan Kevelson's behalf. I was also present at a meeting with Mr. David G. Trager, United States Attorney, on September 19, 1975, together with Mr. Caden, Mr. Zoloto and Mr. Raymond Grunewald, and on that occasion, Mr. Zoloto advised all present that he was making this motion and was awaiting receipt of the medical reports and findings of the three physicians, which are the bases for this motion. The names of the three physicians were disclosed to the U.S. Attorney and to Mr. Caden.

6. During the week of November 24, 1975, I had a telephone conference with Mr. Caden. It was volunteered by Mr. Zoloto and myself that in order to ameliorate any problems with respect to the timeliness of this motion, that we would submit to Mr. Caden all the reports of the doctors, together with any and all medical records which were in our possession in connection with this matter. Mr. Caden suggested that this was not necessary and that we proceed with this motion.

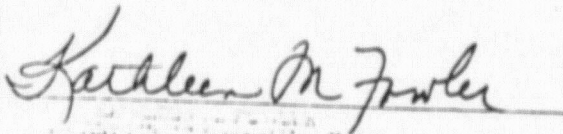
7. That I personally have talked to Doctors Dack and Poindexter and that, as an officer of this Court, I am of the opinion that any trial procedure would be extremely dangerous and might easily result in defendant's death while being examined in the courtroom.

8. Both doctors have informed me personally that they strongly advise against the defendant appearing in the courtroom.

WHEREFORE, I most respectfully pray that this most Honorable Court order that a continuance and/or severance be granted to Nathan Kvelson based on the fact that he is medically unable to stand trial because of his severe heart condition, and for such other and further relief as to this Court may seem necessary, proper and in the interest of justice.


STUART R. SHAW

SWORN TO before me this
3rd day of December, 1975



Notary Public for the State of New York
Commission Expires March 10, 1976

76

RECEIVED

August 6, 1974

RE: NATHAN KEVELSON

TO WHOM THIS MAY CONCERN:

Mr. N. Kevelson first consulted me on July 31, 1967 because of symptoms referable to his gout and obesity. Examination revealed that he was normotensive, his lungs were clear, the chest x-ray showed some prominence of the left ventricle and tortuous aorta, and I considered this the beginning development of possible heart disease. However, the electrocardiogram was normal. The patient subsequently consulted me in July, 1969, at which time, the diagnosis of Pagets Disease was made. X-ray of the spine was done by the office of Dr. N. Nathanson, et. al., 2020 Cortelyou Road, Brooklyn, New York, after complete skeletal survey showed the presence of typical sclerotic Pagets Disease involving the left ilium extending into the ischium. There was some involvement of the right ilium and ischium to a somewhat lesser degree. Enlargement of the prostate was noted, at that time, as well.

In 1971 the patient complained of mild dyspnea and exertion and examination showed the left ventricle to be enlarged with a tortuous aorta. The patient was advised that he had arteriosclerotic heart disease with some enlargement of the heart. The patient was referred to Dr. G. Wise of Maimonides Medical Center of Brooklyn, who confirmed the diagnosis of hypertrophy of the prostate and congested prostatitis. The electrocardiogram taken in 1968 was within normal limits, however, the one taken in 1971 showed some slowing of the heart rate to 50 to 51 per minute.

In August, 1972 the patient again consulted me and the electrocardiogram showed a more marked sinus bradycardia and sinus arrhythmia with a rate of 32 through 55 per minute. The patient was advised to limit his activities more and to consult me more frequently. In January, 1973 the patient had a functional bradycardia with a rate of 42 per minute. In May, 1974 he was found to be in atrial flutter with a 2:1 and 4:1 ventricular response and an average rate of 85 per minute. At that time Mr. Kevelson was treated with digoxin and quinidine, but reacted poorly to this medication and we had to stop these. In June 27, 1974 the patient's heart rate was 33 beats per minute. Digoxin therapy had been stopped on June 27, 1974.

Dr. Simon Back saw the patient in consultation on July 3, 1974, and reported that his heart was enlarged on percussion with a bradycardia of 44 beats per minute. The blood pressure was 135/80 mm. A bigeminal rhythm was noted. X-ray of the chest

EXHIBIT "A"

BENJAMIN ROSENBERG, M. D., F.A.C.P.
EDWARD RUBIN, M. D.
ALEXANDER J. LAZAR, M. D.
P. G.

A 23

10 STRATFORD ROAD
BROOKLYN, N. Y. 11218
INDENOLL 9-4600-1

II

RE: NATHAN KEVELSON

showed enlargement of the left ventricle. The electrocardiogram done by Dr. Daek was abnormal with a rate of 33 to 35 per minute. The ST segments were depressed and the T waves were diphasic.

Dr. Daek felt that the patient had a so called "sick sinus syndrome" and confirmed our impression that a permanent cardiac pacemaker was indicated. Accordingly, the patient was admitted to the Maimonides Medical Center on July 3, 1974 and a cardiac pacemaker was implanted with a good response.

Mr. Kevelson was last seen in my office on July 29, 1974 after discharge from the hospital. He appeared to be improved somewhat. Mr. Kevelson is a seriously ill man with evidence of marked cardiac disease. In the future his work must be curtailed and his life style must be more curtailed than previously, since the prognosis for this condition is guarded.

Yours very truly


BENJAMIN ROSENBERG, M.D.

BR/r

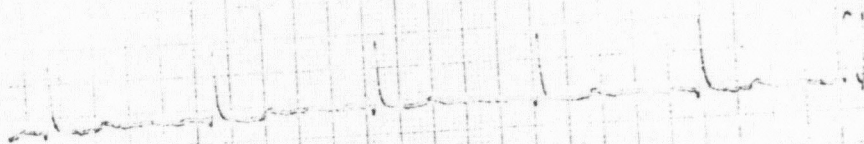
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CASE NO. A

24

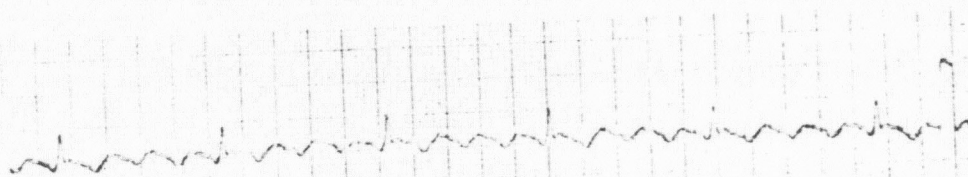
BR

LEAD 1



6 SEC.

LEAD 2



6 SEC.

LEAD 3



HEART RATE

VENTRICULAR RATE

ECG

P WAVES

MEASUREMENT

REMARKS

P-R INTERVAL

Q-RS INTERVAL

T-T INTERVAL

PATIENT POSITION

ELECTRODE POS.

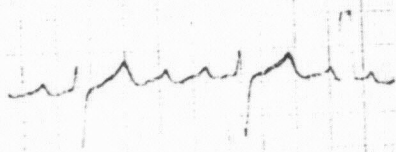
ST. POSITION

POSITION

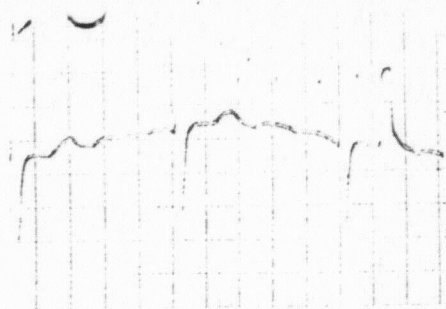
Norton Keverson
5-6-78

A 25

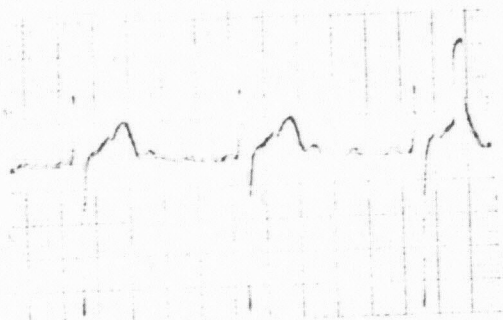
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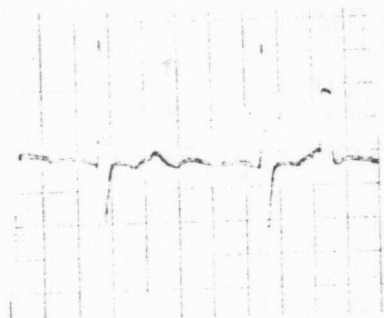
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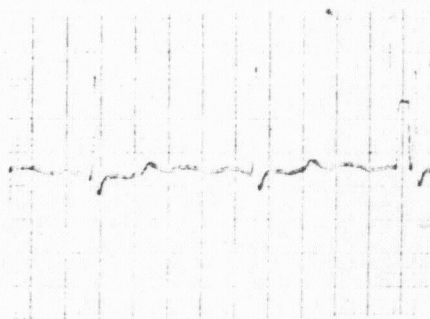
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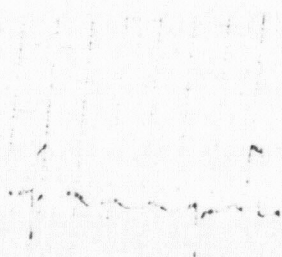
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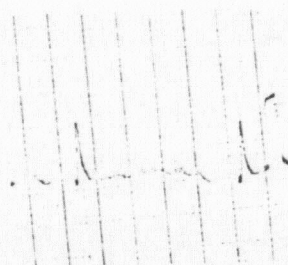
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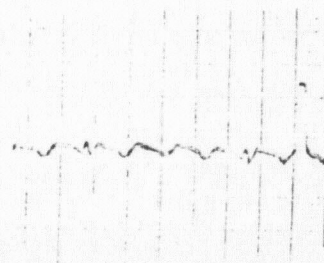
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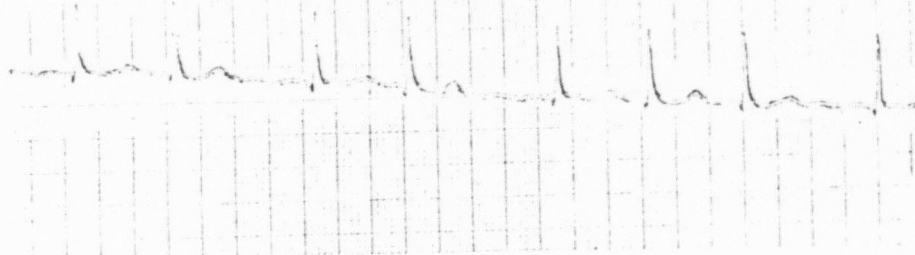
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PATIENT _____ SEX _____ CASE NO. _____ DATE _____ *BAC*

A 26

LEAD 1



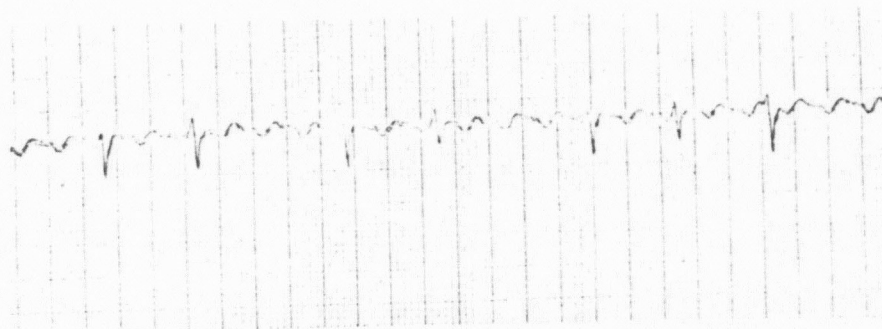
6 SEC.

LEAD 2



6 SEC.

LEAD 3



ATRIAL RATE _____ P-R INTERVAL _____ PATIENT POSITION _____
VENTRICULAR RATE _____ QRS INTERVAL _____ ELECTRICAL AXIS _____
RHYTHM _____ Q-T INTERVAL _____ S-T SEGMENT _____
P WAVES _____ T WAVES _____
REMARKS _____

*Hatch, Wilson
5-2374*

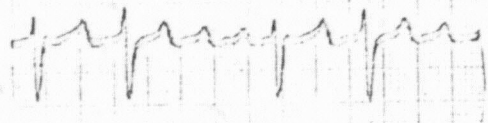
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A 27

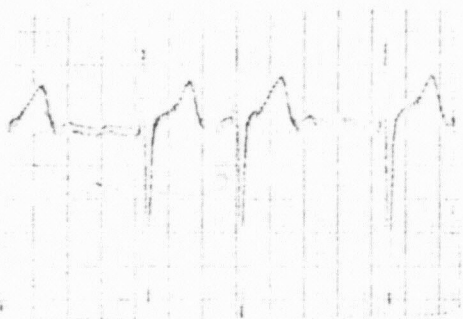
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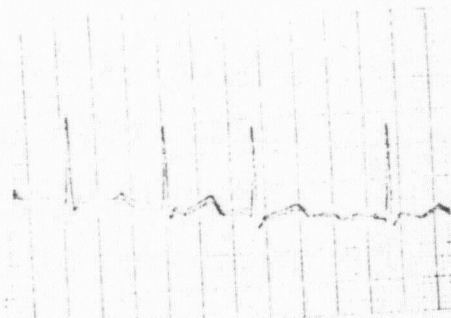
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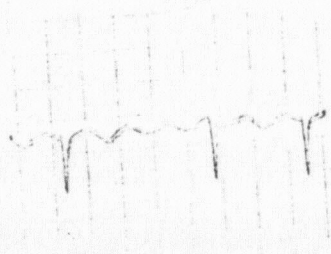


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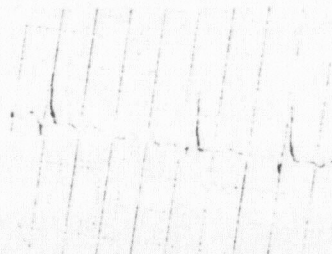


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AVR



AVL



AVF



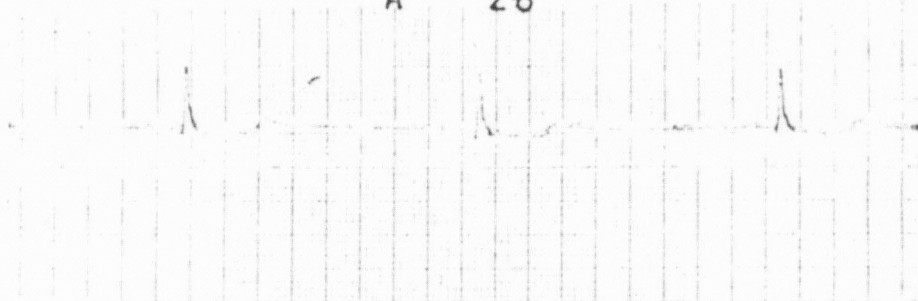
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A 28

Rosenberg

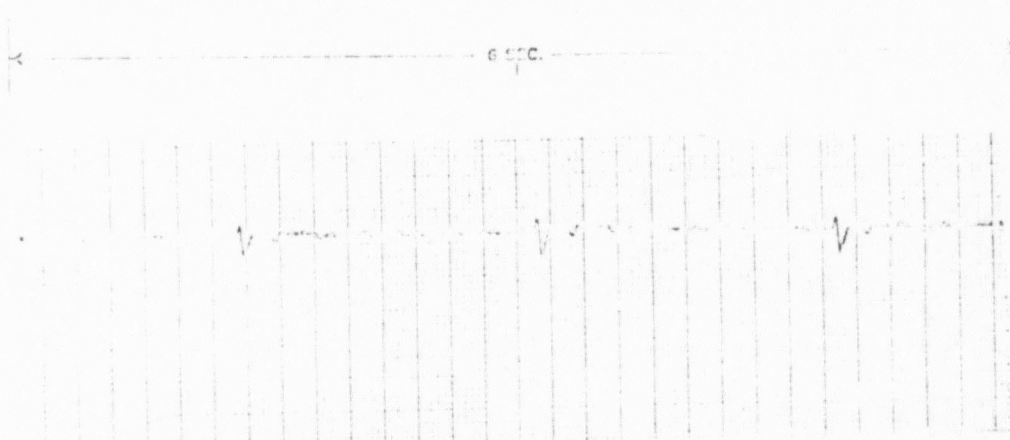
LEAD 1



LEAD 2



LEAD 3



APPROXIMATE RATE

APPROXIMATE RATE

PR INTERVAL

QRS INTERVAL

QT INTERVAL

QTc INTERVAL

PR INTERVAL

QRS INTERVAL

QT INTERVAL

QTc INTERVAL

LEAD 1 POSITION

LEAD 2 POSITION

LEAD 3 POSITION

LEAD 4 POSITION

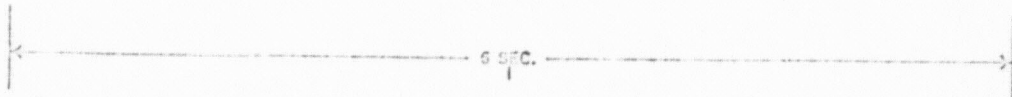
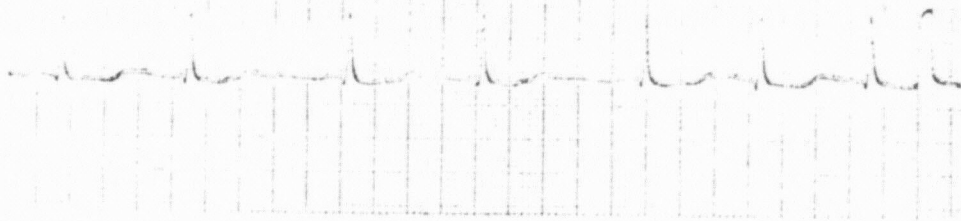
Dr. Rosenberg

27-74

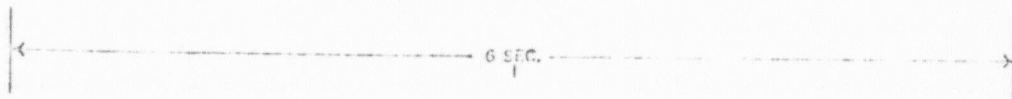
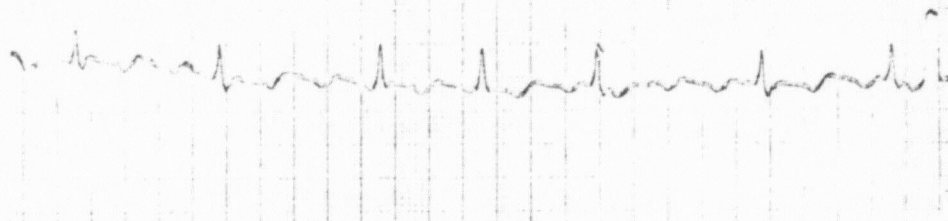
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CASE NO. DOCTOR

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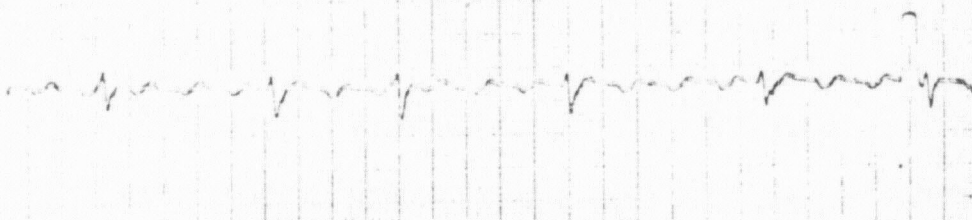
LEAD 1



LEAD 2



LEAD 3

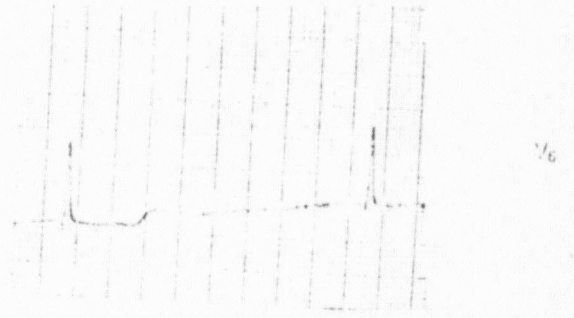
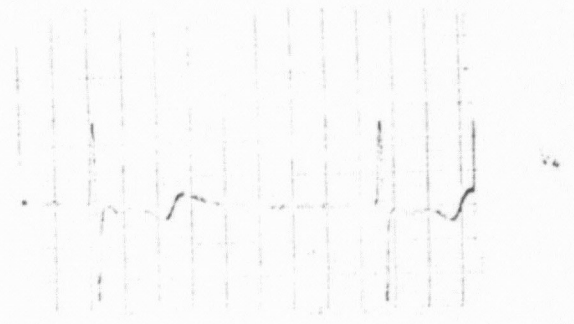
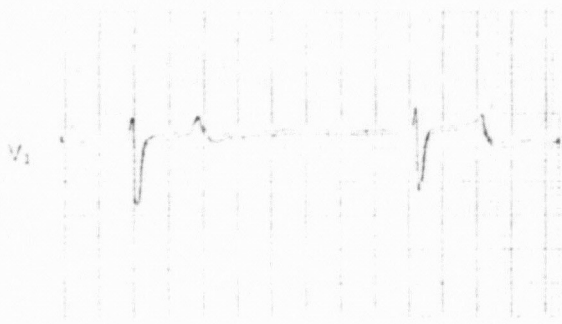


ATRIAL RATE	P-R INTERVAL	PATIENT POSITION
VENTRICULAR RATE	QRS INTERVAL	ELECTRICAL AXIS
RYTHM	Q-T INTERVAL	S-T SEGMENT
P WAVES	T WAVES	
REMARKS		

Nat K. Nelson
5/14/74

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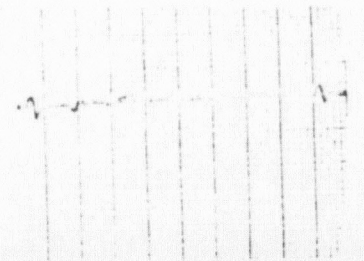
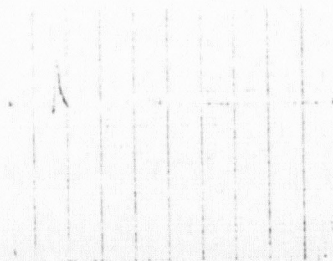
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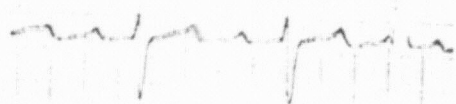
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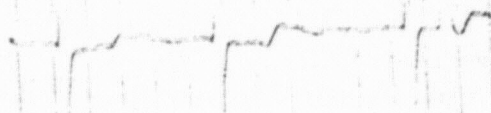
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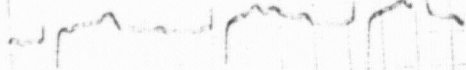
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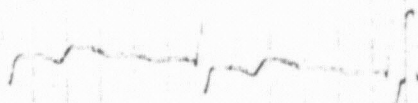
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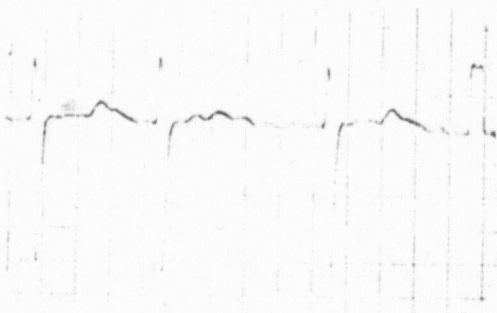
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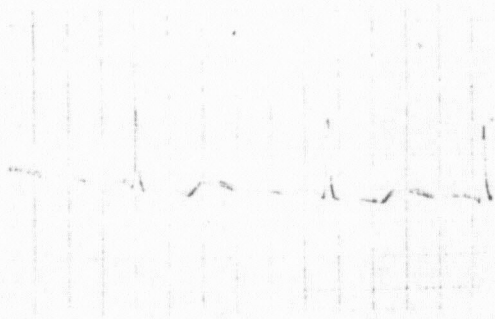
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V₃



V₆



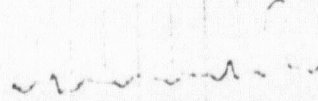
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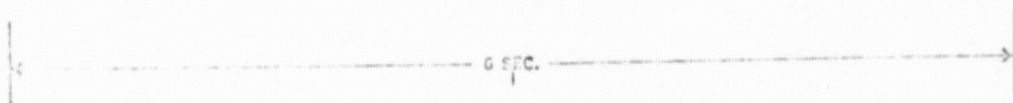


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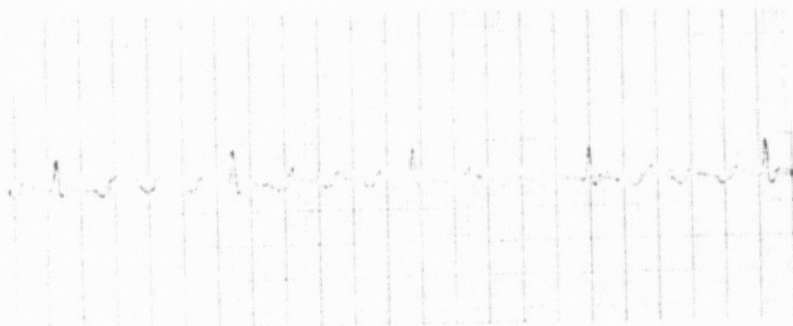


NO. 32

LEAD 1



LEAD 2



LEAD 3



APPROX. DATE	P-R INTERVAL	PATIENT POSITION
STANDARD RATE	QRS INTERVAL	ELECTRICAL AXIS
WAVE	Q-T INTERVAL	ST SEGMENT
WAVE	T WAVES	

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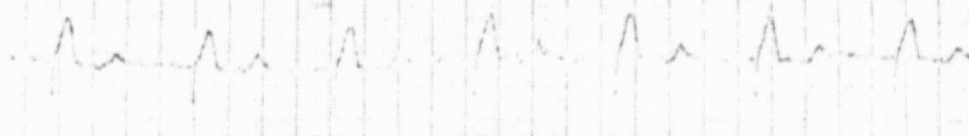
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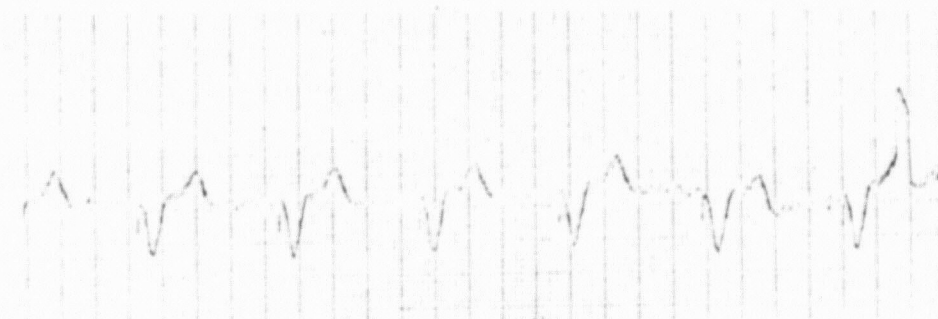
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A 33

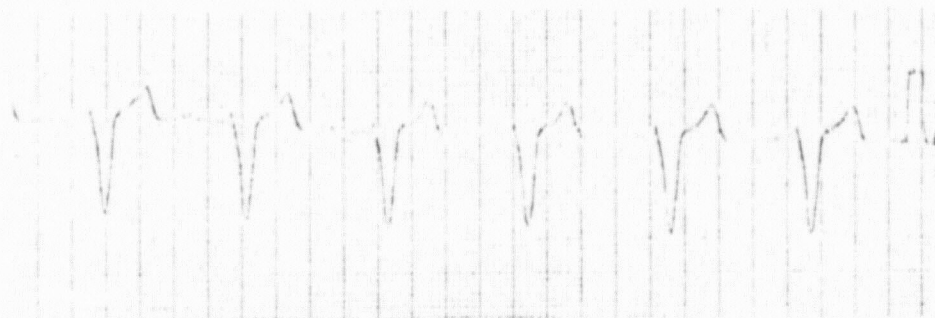
LEAD 1



LEAD 2



LEAD 3



APPROXIMATE RATE

APPROXIMATE BEAT RATE

100/100

100/100

100/100

100/100

PR INTERVAL

QRS INTERVAL

QT INTERVAL

100/100

PATIENT POSITION

ELONGATION AXIS

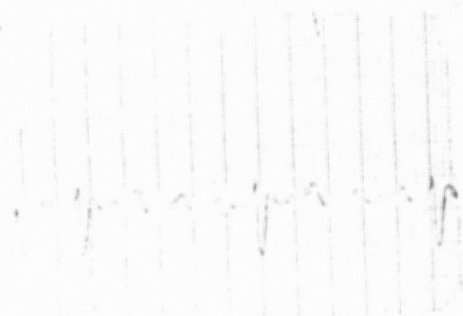
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100/100/100

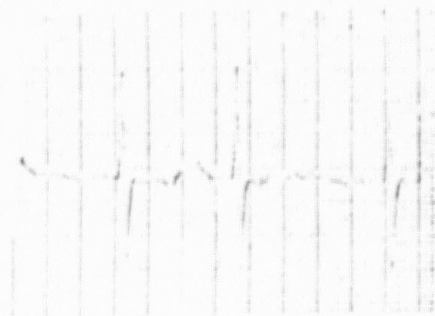
Pat. Kivelson
9/5/77

A. 31

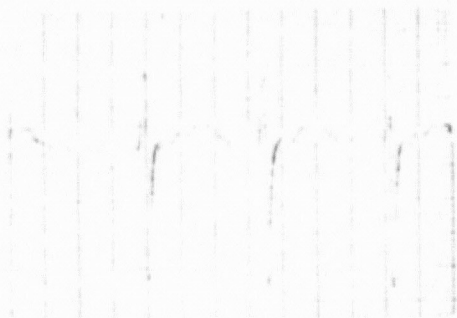
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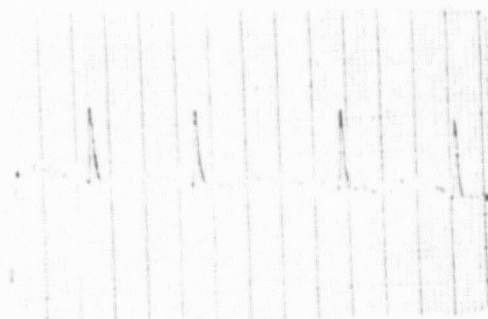
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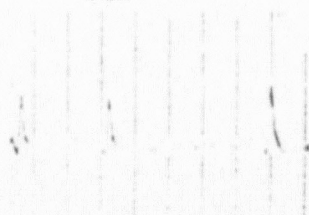
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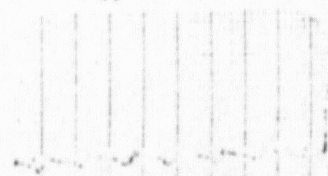
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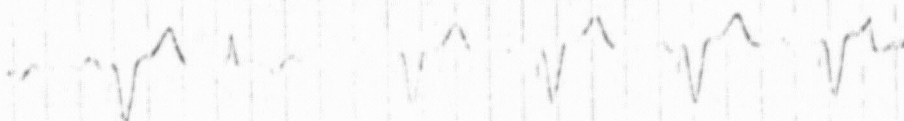
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LEAD 1



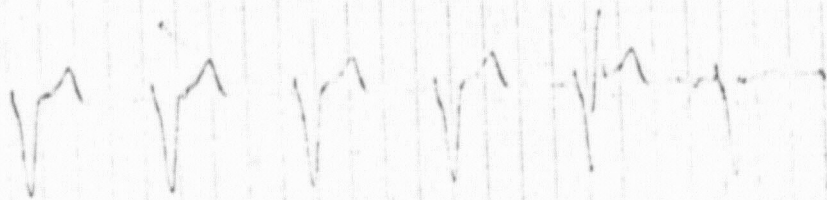
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FIG. 2.



- 61°C.

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總計 1990 年 12 月 31 日

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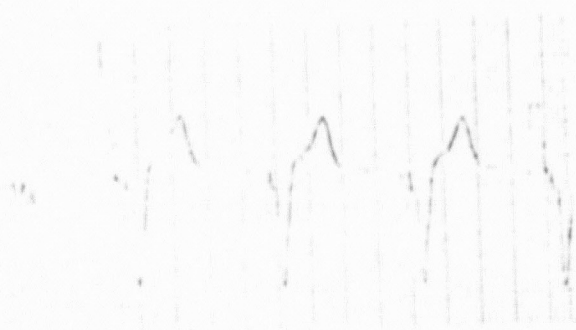
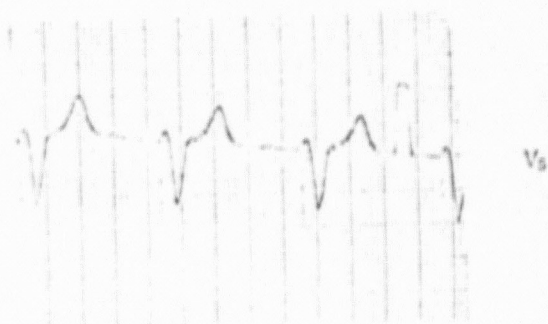
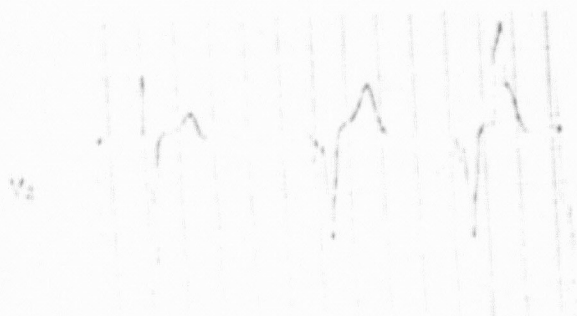
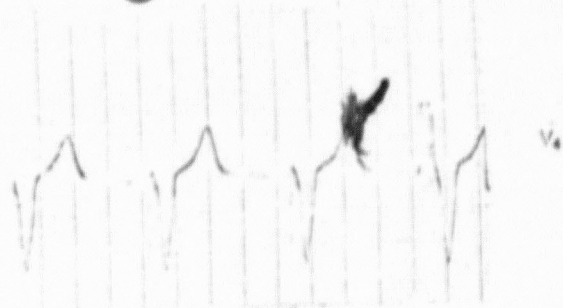
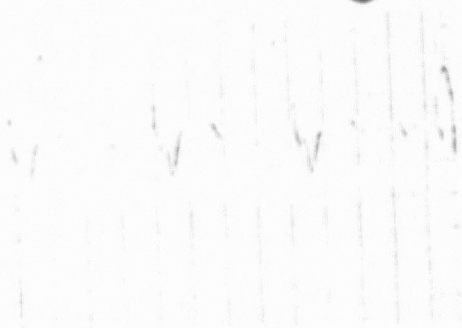
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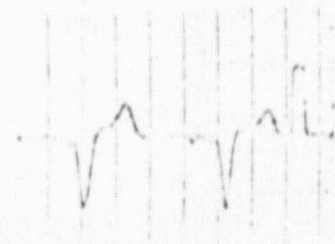
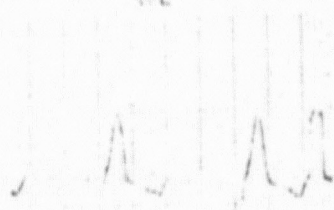
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II

III

AVF



A 37

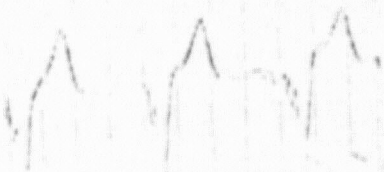
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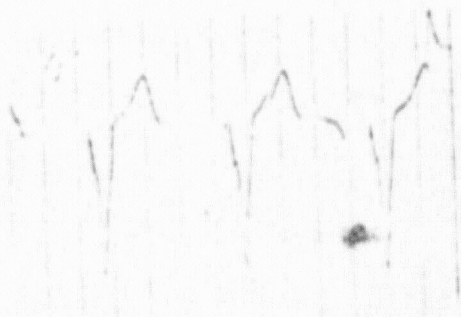
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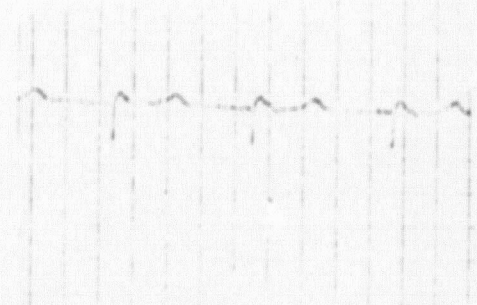
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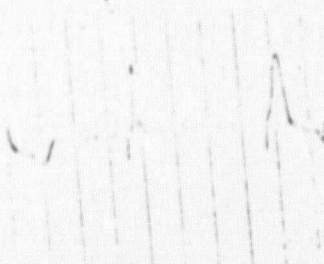
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AVR



AVL



AVF



BENJAMIN ROSENBERG, M. D., F.A.C.P.

RICHARD RUBIN, M. D.

ALEXANDER J. LAZAR, M. D.

P. C.

A 38

10 STRATFORD ROAD

BROOKLYN, N. Y. 11218

INGERSOLL 9-4600-1

September 9, 1975

RE: NATHAN KEVELSON

TO WHOM THIS MAY CONCERN:

On August 26, 1975 I examined Mr. N. Kevelson again and am writing a report of my findings plus a summary of his previous condition. There was a worsening of the patient's condition on this examination, in that he now complained of more increased shortness of breath with exertion, than was noted previously. He, also, noted that with walking, even at a normal rate, he would have to stop after one block because of angina of effort. At times, the chest pain which occurred was associated with numbness in his hands. The blood pressure was 130/80 mm., and the heart was pacing at a rate of 72 with occasional irregularity. The electrocardiogram showed fair pacemaker functioning with a sinus bradycardia and P waves that occasionally conducted. The heart was enlarged to percussion and auscultation, and the sounds were diminished. The liver was palpable.

It was my feeling that his condition of coronary artery disease with anginal syndrome and "sick sinus syndrome" had deteriorated somewhat. I urged the patient to keep a supply of nitroglycerine with him and to curtail his activities even more than previously.

Because of the deterioration of his underlying heart disease, I do not believe that it is possible for this man to stand trial. The anxiety and tension associated with this could be hazardous to him, and the risk of even more permanent damage could follow such an ordeal.

Yours very truly

Benjamin Rosenberg

BENJAMIN ROSENBERG, M.D.

BR/r

"B"

BENJAMIN RUENDELLEB, M. D., F.A.C.P.
RICHARD RUBIN, M. D.
ALEXANDER J. LAZAR, M. D.
P. C.

10 STRATFORD ROAD
BROOKLYN, N. Y. 11218
INDERBOLL 9-4600-1

September 9, 1975

RE: NATHAN KEVELSON

TO WHOM THIS MAY CONCERN:

Mr. N. Kevelson first consulted me on July 31, 1967 because of symptoms referable to his gout and obesity. Examination revealed that he was normotensive, his lungs were clear, the chest x-ray showed some prominence of the left ventricle and tortuous aorta, and I considered this the beginning development of possible heart disease. However, the electrocardiogram was normal. The patient subsequently consulted me in July, 1969, at which time, the diagnosis of Pagets Disease was made. X-ray of the spine was done by the office of Dr. N. Nathanson, et. al., 2020 Cortelyou Road, Brooklyn, New York, after complete skeletal survey showed the presence of typical sclerotic Pagets Disease involving the left ilium extending into the ischium. There was some involvement of the right ilium and ischium to a somewhat lesser degree. Enlargement of the prostate was noted, at that time, as well.

In 1971 the patient complained of mild dyspnea and exertion and examination showed the left ventricle to be enlarged with a tortuous aorta. The patient was advised that he had arteriosclerotic heart disease with some enlargement of the heart. The patient was referred to Dr. G. Wise of Maimonides Medical Center of Brooklyn, who confirmed the diagnosis of hypertrophy of the prostate and congestive prostatitis. The electrocardiogram taken in 1969 was within normal limits, however, the one taken in 1971 showed some slowing of the heart rate to 50 to 52 per minute.

In August, 1972 the patient again consulted me and the electrocardiogram showed a more marked sinus bradycardia and sinus arrhythmia with a rate of 32 through 55 per minute. The patient was advised to limit his activities more and to consult me more frequently. In January, 1973, the patient had a junctional bradycardia with a rate of 42 per minute. In May, 1974 he was found to be in atrial flutter with a 2:1 and 4:1 ventricular response and an average rate of 85 per minute. At that time Mr. Kevelson was treated with digoxin and quinidine, but reacted poorly to this medication and we had to stop these. On June 27, 1974 the patient's heart rate was 33 beats per minute. Digoxin therapy had been stopped on June 27, 1974.

Dr. Simon Dack saw this patient in consultation on July 8, 1974 and reported that his heart was enlarged on percussion with a bradycardia of 44 beats per minute. The blood pressure was 130/80 mm. A bigeminal rhythm was noted. X-ray of the chest

BENJAMIN ROSENBERG, M. D., F.A.C.P.
RICHARD RUBIN, M. D.
ALEXANDER J. LAZAR, M. D.
P. C.

18 STRATFORD ROAD
BROOKLYN, N. Y. 11218
INDERSOLL 9-4600-1

II

RE: NATHAN KEVELSON

showed enlargement of the left ventricle. The electrocardiogram done by Dr. Dack was abnormal with a rate of 33 to 35 per minute. The ST segments were depressed and the T waves were diphasic.

Dr. Dack felt that the patient had a so called "sick sinus syndrome" and confirmed our impression that a permanent cardiac pacemaker was indicated. Accordingly, the patient was admitted to the Maimonides Medical Center on July 3, 1974 and a cardiac pacemaker was implanted with a good response.

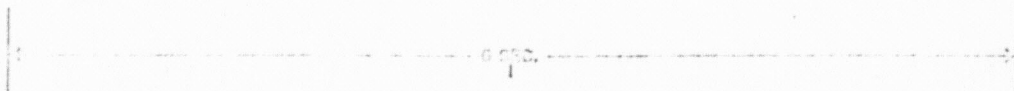
Benjamin Rosenberg
BENJAMIN ROSENBERG, M.D.

SEX

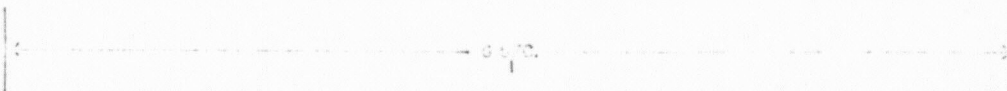
CASE NO. 41

DOCTOR

LEAD 1



LEAD 2



LEAD 3



ANGULAR DATE

PR INTERVAL

PATIENT POSITION

ANGULAR DATE

QRS INTERVAL

ELECTRODE AXIS

ANGULAR DATE

QT INTERVAL

ST SEGMENT

ANGULAR DATE

T WAVES

ELECT. POSITION

ANGULAR DATE

ANGULAR DATE

Mar. 1941

A

42

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RECEIVED NO 691-40

V₃

AVR

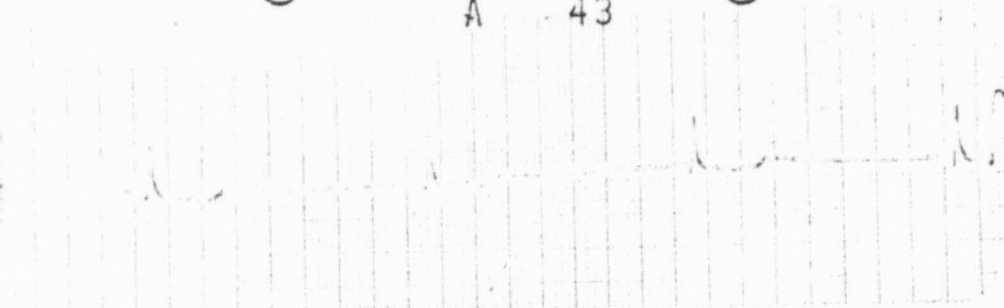
AVL

AVF

TEST NO. A 43

DOCTOR

LEAD 1



6 SEC.

LEAD 2



6 SEC.



RATE
VENTRICULAR RATE
RHYTHM
P WAVES
ISOLATION
REMARKS

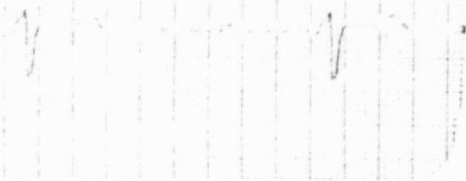
PR INTERVAL
QRS INTERVAL
QT INTERVAL
T WAVES

PATIENT POSITION
ELECTRICAL AXIS
QT SEGMENT
ELECT. POSITION

2.5. 6. 25. 14

A 44

V₁



V₂



V₃

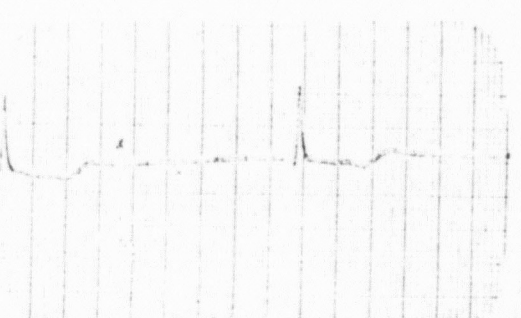


V₄

V₅



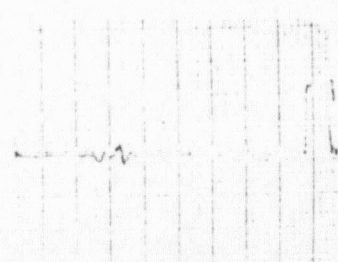
V₆



AVR

AVL

AVF



DATE

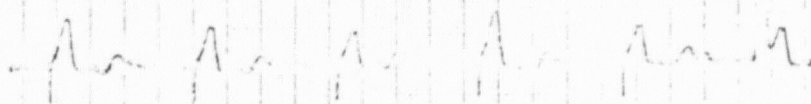
SEX

DOCTOR

A

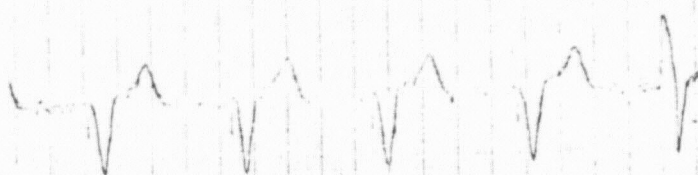
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LEAD 1



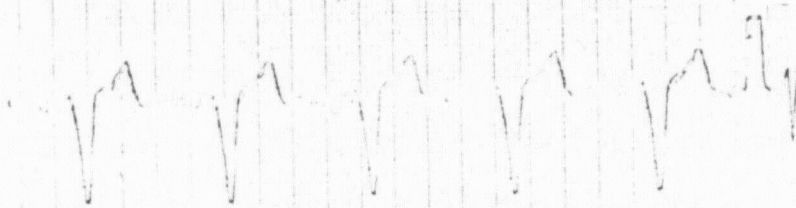
6 SEC.

LEAD 2



6 SEC.

LEAD 3



HEART RATE	P-R INTERVAL	PATIENT POSITION
VENTRICULAR RATE	Q-R INTERVAL	ELECTRODE AXIS
WAVEFORM	Q-T INTERVAL	S-T SEGMENT
WAVES	T WAVES	
REMARKS		

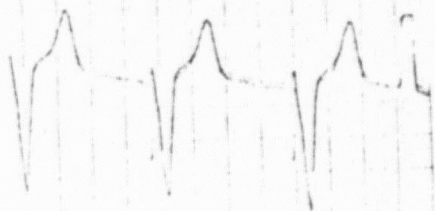
John A. Kingston
12-11-58

A 46

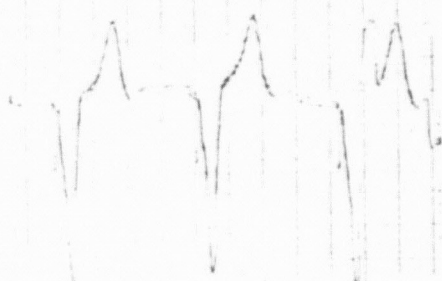
V₁



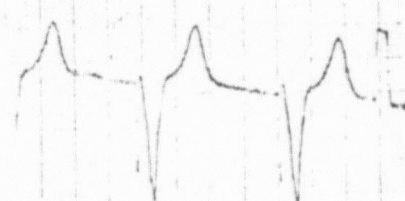
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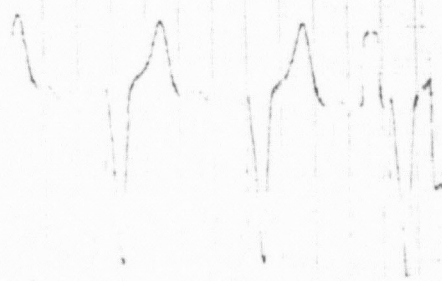
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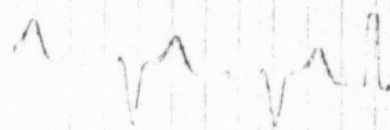
V₅



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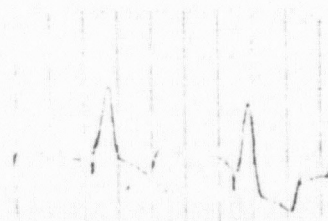
V₆



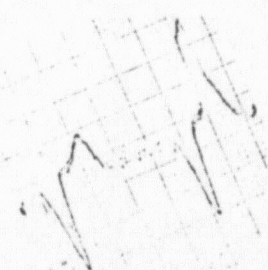
AVR



AVL



AVF



SEX

PATIENT NO.

CR

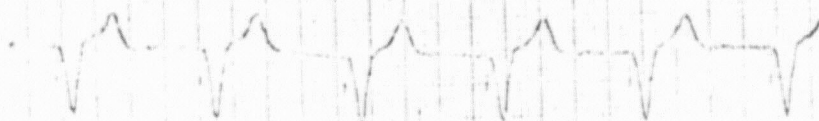
A 47

LEAD 1



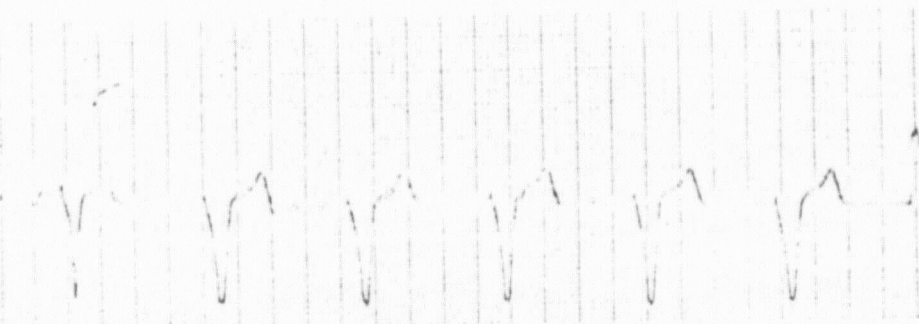
6 SEC.

LEAD 2



6 SEC.

LEAD 3



AXIAL RATE _____ PR INTERVAL _____ PATIENT POSITION _____
VENTRICULAR RATE _____ QRS INTERVAL _____ ELECTRICAL AXIS _____
RHYTHM _____ QT INTERVAL _____ ST SEGMENT _____
P WAVES _____ T WAVES _____
QTc _____

DATE

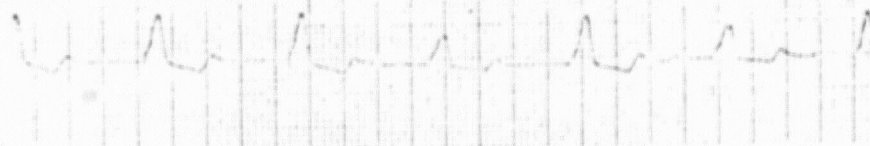
P-X

CASE NO. A

49

DOCTOR

LEAD 1



6 SEC.

LEAD 2



6 SEC.

LEAD 3



ADMIT DATE

P-R INTERVAL

PATIENT POSITION

HEART RATE

QRS INTERVAL

ELECTRICAL AXIS

RHYTHM

Q-T INTERVAL

ST SEGMENT

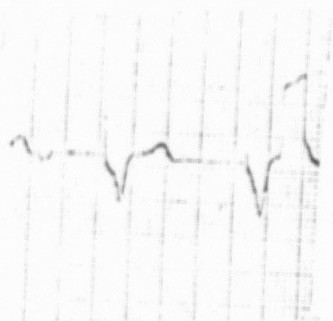
T WAVES

T WAVES

REMARKS

Mat. K. K. K.

V₁



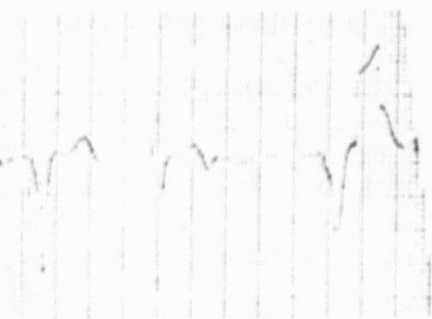
A

50



V₄

V₂

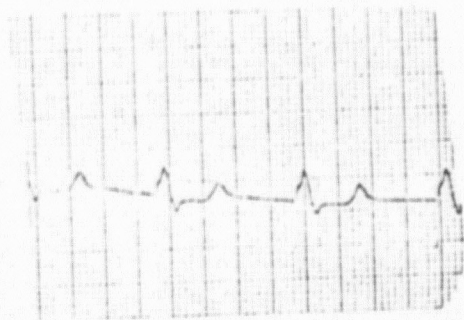


V₂

V₃



V₃

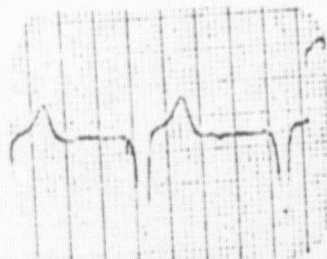
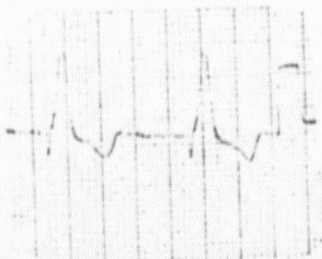
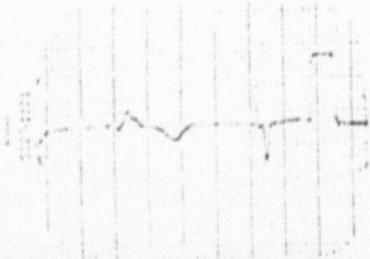


AVR

AVL

AVF

HELMUTH FACHAND



PATIENT

ADDRESS

AGE

DATE

ADDRESS

PHONE

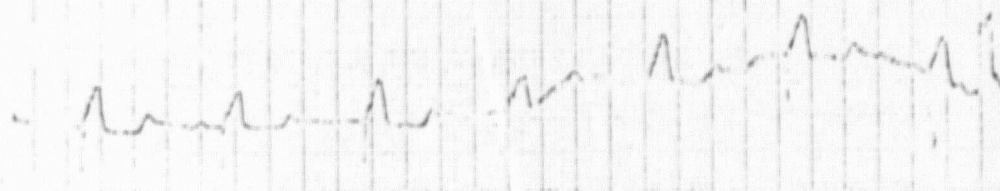
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CASE NO

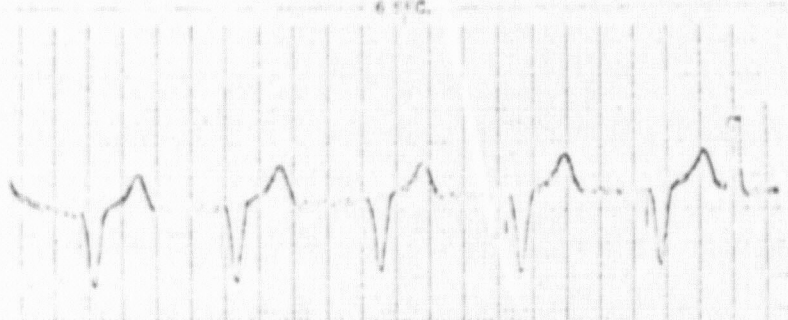
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A 51

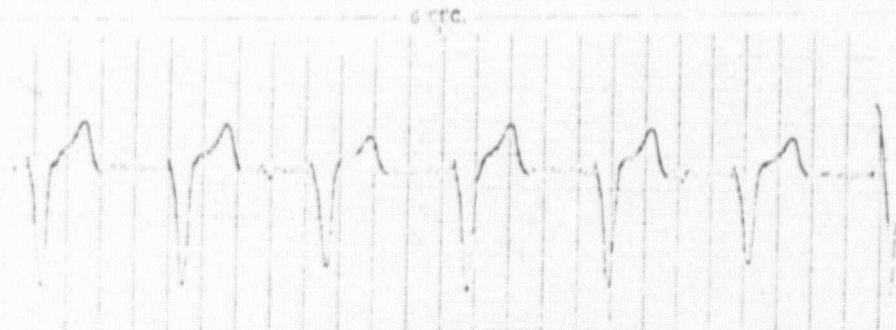
LEAD 1



LEAD 2



LEAD 3



VENTRICULAR RATE

P-R INTERVAL

PATIENT POSITION

VENTRICULAR RATE

Q-R-S INTERVAL

ELECTRICAL AXIS

RHYTHM

S-T SEGMENT

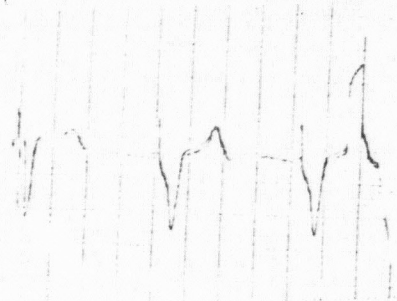
T WAVES

ADDITIONAL

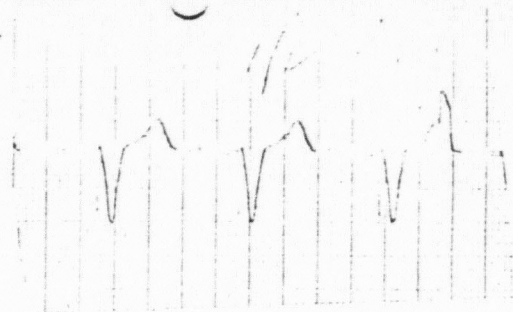
Pat Kenelson
8/26/75

A 52

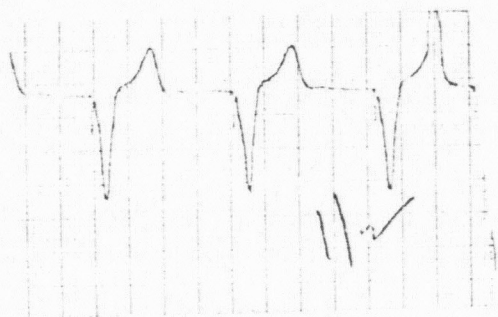
LEAD
V₁
CF₁
CL₁
CR₁



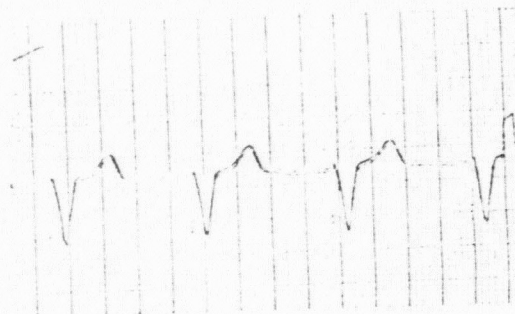
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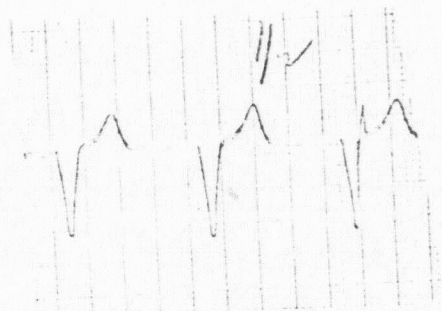
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CR₂



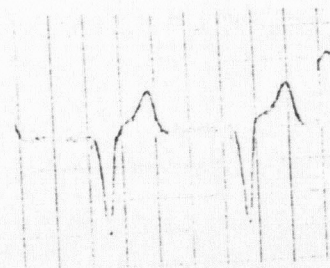
LEAD
V₅
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CR₅



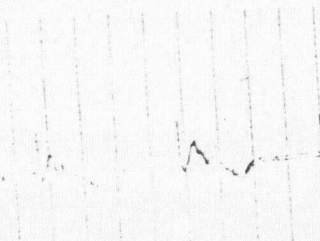
LEAD
V₃
CF₃
CL₃
CR₃



LEAD
V₆
CF₆
CL₆
CR₆



LEAD VR AVR



LEAD VL AVL

LEAD VL AVL

LEAD VF AVF

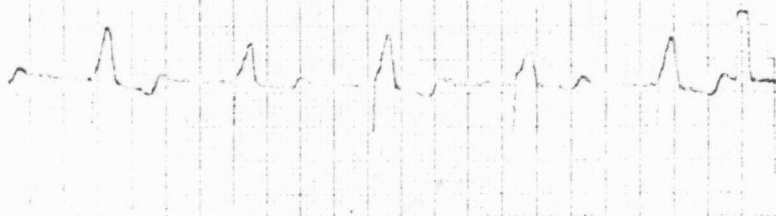
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MFD FOR NECH. N. SILVER CO. INC.
225 S. WOODSTREET CHICAGO, ILL.

SERIAL NO. 53
CASE No. A

DATE

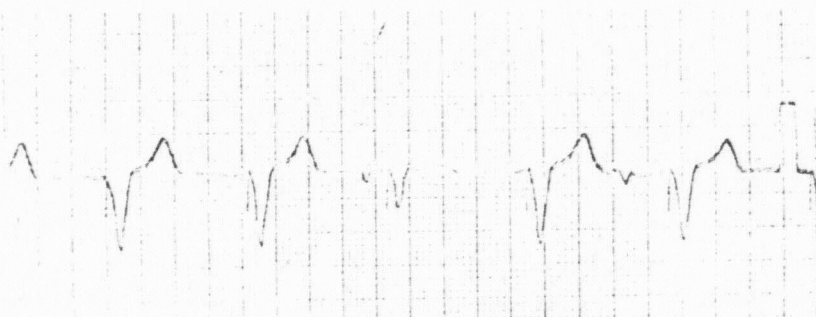
LOCATION

LEAD 1



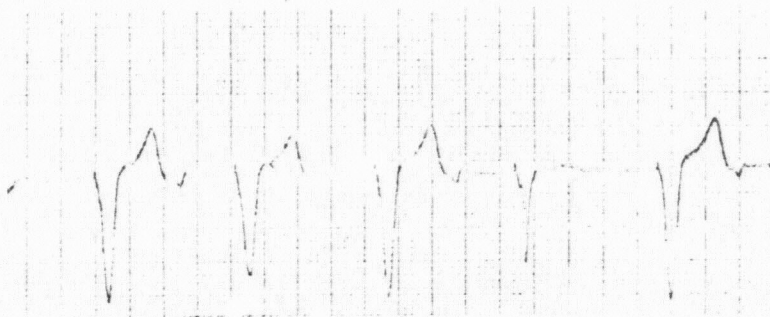
6 SEC.

LEAD 2



6 SEC.

LEAD 3



APPROXIMATE

P-R INTERVAL

PATIENT POSITION

VENTRICULAR RATE

QRS INTERVAL

ELECTRICAL AXIS

RHYTHM

QT INTERVAL

S-T SEGMENT

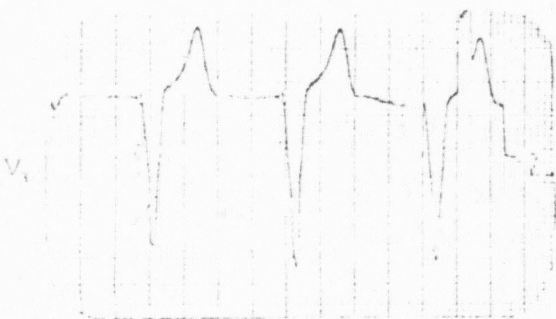
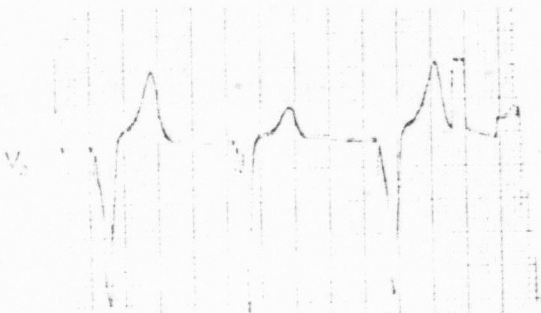
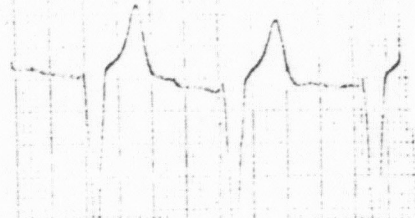
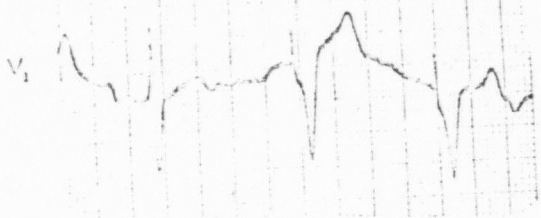
ECG WAVES

T WAVES

REMARKS

Nathan K. Nelson
10-9-75

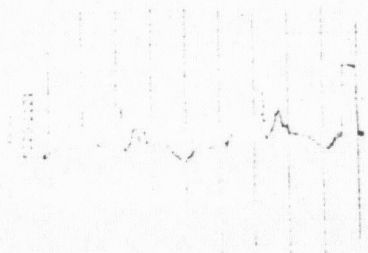
A 54



AVR

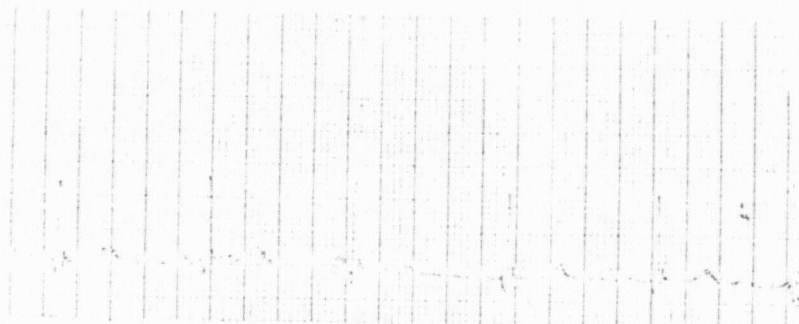
AVL

AVF



A 55

LEAD 1



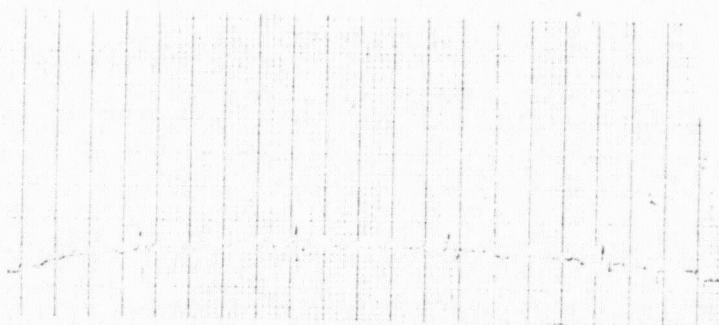
6 SEC.

LEAD 2



6 SEC.

LEAD 3



PATIENT _____ ROOM NO. _____ AGE _____ SEX _____ DATE _____
 ADDRESS _____
 DOCTOR _____ CASE NO. _____ PHONE _____
 SERIAL NO. _____

ATRIAL RATE _____

P-R INTERVAL _____

PATIENT POSITION _____

VENTRICULAR RATE _____

QRS INTERVAL _____

ELECTRICAL AXIS _____

Q-T INTERVAL _____

Q-T INTERVAL _____

ST SEGMENT _____

P WAVES _____

T WAVES _____

REMARKS _____

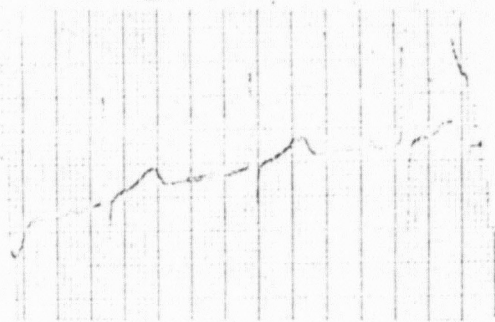
W. Nathan R...

A 56

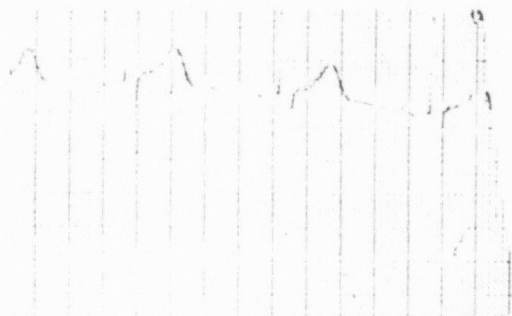
V₁



V₄



V₂



V₅



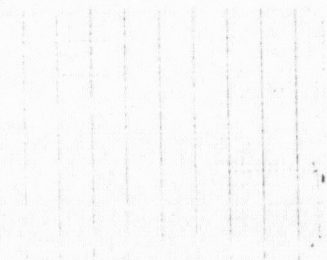
V₃



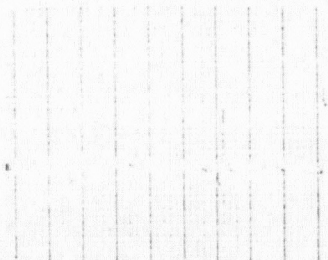
V₆



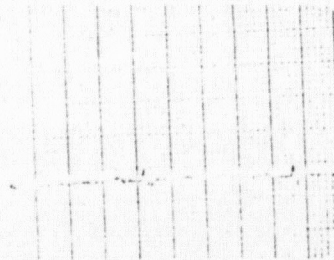
AVR



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BENJAMIN ROSENBERG, M. D., F.A.C.P.
 RICHARD KUPPEL, M. D.
 ALLYSON J. LACAR, M. D.
 P. C.

10 STRATFORD ROAD
 BROOKLYN, N. Y. 11218
 PHONE BR 9-4600-1

October 16, 1975

RE: NATHAN KEVLESON

TO WHOM THIS MAY CONCERN:

I examined Mr. N. Kevleson on October 9, 1975. At this time the patient complained of increasing angina of effort. He stated that he had to use four to six nitroglycerine tablets daily, particularly if he did a little walking. He could walk only one block, he stated, without chest pain. He also complained of anxiety and extreme nervousness.

Examination revealed a blood pressure of 150/90 mm. The lungs were clear to percussion and auscultation. The heart was enlarged to the left. A systolic murmur was heard at the apex. The patient's heart was being paced by the pacemaker most of the time, but there were runs of the patient's own heart beats. There was no evidence of congestive heart failure.

In my opinion, there has been a steady downward course in this patient, in that he has had increased angina with much less exertion than previously. He is extremely emotional and tense individual. It is my opinion, after observing this man, that his having to stand trial would add a tremendous amount of stress to his condition, and could result in more severe coronary disease and coronary inefficiency. It is possible that he might not be able to survive the ordeal of a long courtroom trial.

Yours very truly

Benjamin Rosenberg
 BENJAMIN ROSENBERG, M.D.

/r

EXHIBIT "C"

SIMON DACK, M.D., P.C.
1111 PARK AVENUE
NEW YORK, N.Y. 10028
SACRAMENTO 2-1575

July 8, 1974

Benjamin Rosenberg, M. D.
10 Stratford Road
Brooklyn, New York 11218

Re: Mr. Nathan Kvelson

Dear Benjamin:

Many thanks for referring Mr. Nathan Kvelson for cardiac consultation. The patient states that he has had no symptoms referable to his heart such as chest pain, shortness of breath, and has never had any feelings of blackout or faintness. Examination of his electrocardiogram indicates that he has had a bradycardia since at least May 1971 when he had a sinus bradycardia of 52 to 56 per minute. In August 1972 he had a more marked sinus bradycardia and sinus arrhythmia with the rate varying from 30 to 55 per minute. In January 1973 he had junctional bradycardia with a rate of 42 per minute. On May 2, 1974 he was found to be in atrial flutter with 2:1 and 4:1 ventricular response and an average rate of 85 per minute. At that time he was treated with Digoxin and Quinidine. The rhythm reverted to sinus and junctional bradycardia and on June 27 his rate was as slow as 33 per minute. On June 28 he still showed a rate of 35-36 per minute. Digoxin therapy was stopped on June 27.

Examination on June 3 showed a sthenic, slightly obese man of 66 who weighed 182 pounds half dressed. The lungs were clear. The heart was slightly enlarged to the left on percussion. The heart sounds were moderately distant and there were no murmurs. There was a bradycardia of 44 per minute and a blood pressure of 138/80. On deep inspiration a bigeminal rhythm appeared.

Chest x-ray and cardiac fluroscopy disclosed moderate left ventricular enlargement and generalized diminished pulsations over the left ventricular border. The lungs were clear. The hilar vessels were accentuated. The radiographic appearance is the same as in your x-ray taken in May.

EXHIBIT "D"

Benjamin Rosenberg, M., D.

, - 2 -

July 8, 1974

Re: Mr. Nathan Kevelson

The electrocardiogram showed a junctional and low atrial rhythm with marked bradycardia from 33 to 45 per minute with an average rate of 38 per minute. There were occasional early of premature beats which were conducted probably from a sinus node. The S-T segments were depressed in Leads I, AVL, and V3 to V6 and the T wave was diphasic in the left precordial leads. This suggests myocardial involvement or digitalis effect or both.

The patient has a sick sinus node syndrome with extreme bradycardia and also episodes of flutter. I believe that antiarrhythmic agents would aggravate the arrhythmia and for this reason implantation of a permanent cardiac pacemaker is indicated. Following pacemaker implantation, if necessary, he can be maintained on Digoxin or Quinidine if there is a recurrence of atrial flutter.

With kind regards.

Very sincerely yours,

Simon Dack, M. D.

SD/hhs
Enc.

A 60

SIMON SACK, M.D., P.C.

300 E. 10TH AVENUE

NEW YORK, N.Y. 10028

FACEBOOK: 10028-10028

October 17, 1975

Dr. Benjamin Rosenberg
12 Stanford Road
Brooklyn New York 11218

Nathan Kovelson

Dear Dr. Rosenberg:

Many thanks for referring Nathan Kovelson for consultation. Since I first saw him on July 3, 1974, a cardiac pacemaker was implanted several days after that for a bradyarrhythmia syndrome and sick sinus node syndrome, which was producing bradycardia and atrial fibrillation. Since then his rhythm has been stable. However, he has continued to have frequent anterior chest pain particularly on exertion, occurring on mild physical exertion such as walking half block and trying to do any type of work, and also on excitement. This has restricted his activities and he has to spend most of his time at home.

Examination disclosed a stocky man of 67, who weighed 195 pounds, well developed. Heart rate regular at 72 per minute. Blood pressure 142/96. Lungs clear. No rales. Lungs were clear. There were no signs of congestive failure.

Chest x-ray and cardiac fluoroscopy disclosed considerable enlargement of the heart involving predominantly the left ventricle. The cardiac pacemaker catheter was well visualized at the apex of the right ventricle. The left ventricular contractions were diminished in amplitude. Lungs were clear.

The electrocardiogram showed a regular paced rhythm of 72 per minute.

There is clinical evidence of aortic stenosis, the heart disease with which he has been diagnosed, and a very low ejection fraction and severe aortic regurgitation.

EXHIBIT "E"

SIMON DACK, M.D., F.C.

1011 PINE AVENUE

NEW YORK 17, N.Y.

Telephone: 2-1175

Dr. Benjamin Rosenberg

Nathan Steinberg

I advised the patient to continue Nitroglycerine whenever necessary and also prophylactically before carrying out any exertion. He is taking Lasolol, 0.25mg on alternate days. I also added Inderal, 10mg, and Cordil, 5mg each to be taken four times daily. The dose of both could be slowly increased if there are no side effects, still there is clinical effect on the angina. Of course, the patient must continue to limit his physical activities and to avoid all emotional stresses.

He informed me that he has a trial pending in the Federal Court in New York City, and it would be my opinion that such a trial would precipitate a possible aggravation of his angina and that he would be in danger of precipitating coronary insufficiency or myocardial infarction.

With kind regards,

Yours most sincerely,

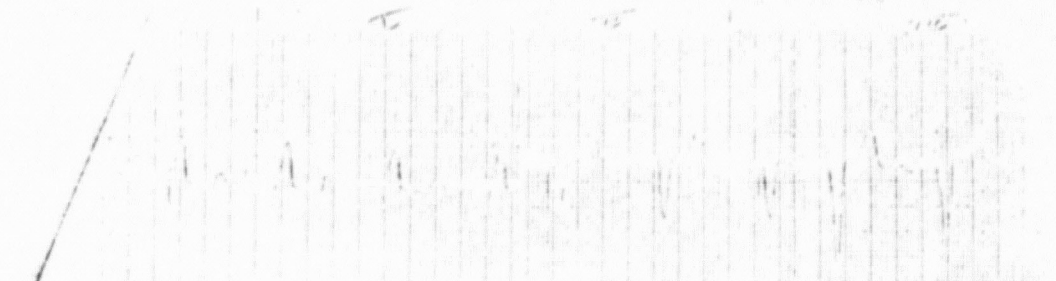
Simon Dack, M.D.

SD/s

enc

A-62

11/15



11/15/40

11/15/40

11/15/40

0.01

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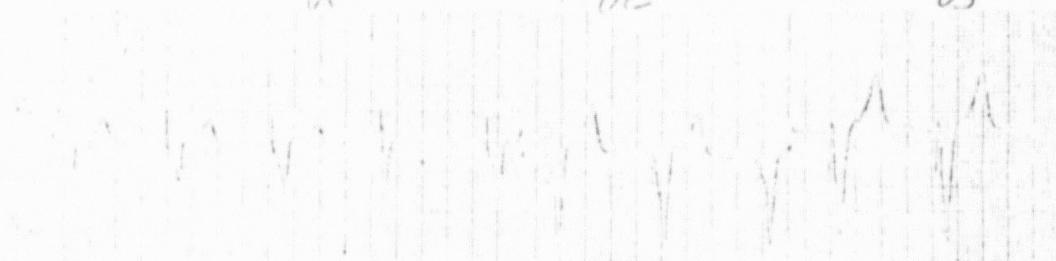


11/15/40

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11/15/40

November 11, 1975

Hon. Judge Jack Weinstein
U.S. District Court
Eastern District of New York
Brooklyn, New York 11201

Dear Sir:

On November 3, 1975 I examined Mr. Nathan Kevelson. He gave a history of having had Pagets disease for several years, which caused him little or no trouble. He told me that he had been relatively well until May 1974, although he had shown signs of the sick sinus syndrome, according to his own Dr. Benjamin Rosenberg.

He then developed spells of weakness and after being studied by his own doctor, it was decided that he had a condition known as a sick sinus syndrome.

About the same time he also began to develop atypical angina pectoris syndrome, namely, severe pain in his chest with physical exertion or with an emotional upset such as climbing stairs or anything in his personal life that caused him to be upset emotionally.

He was seen at that time in consultation by Dr. Simon Dack, one of our most prominent cardiologists in this country, who verified the diagnosis of a sick sinus syndrome, and I myself have seen photostatic copies of the electrocardiograms. There were times when his heart rate dropped as low as 30. These were associated with the spells, particularly of weakness. Dr. Dack recommended at that time that he have a pacemaker implanted. This was done at the Maimonides Hospital, and is still in place and working well.

However, he still complains of symptoms of coronary insufficiency, namely, that of chest pressure and pain on exertion or emotional upset, which is quickly relieved by nitroglycerin.

The only other complaint he had was that of shortness of breath, associated with the spells of distress in his chest.

(over)

EXHIBIT "F"

Hon. Judge Jack Weinstein

-2-

Nov. 11, 1975

Re: Nathan Kavelson

In the past he had had a gall-bladder removed, and also had gradually developed the signs of prostatic hypertrophy.

On physical examination the principal positive finding was that of a cardiac pacemaker which is pacing well. Blood pressure of 132/80. Clear chest, moderate enlargement of the heart, left ventricle. The pacemaker is positive objective finding. It was indicated according to the electrocardiograms and symptoms. So one must presume that the complaint of chest distress is correct and that it verifies diagnosis of severe angina pectoris.

The people with this condition are in constant danger if exposed to strenuous exertion and emotional distress, and I think a trial procedure would be extremely dangerous and might easily result in the patient dying suddenly while he was being examined, in the courtroom.

I would therefore strongly advise against his appearing in court.

Sincerely yours,

Charles A. Poindexter

Charles A. Poindexter, M. D.

CaP:sv

MAIIONIDES MEDICAL CENTER

MAIIONIDES HOSPITAL

DISCHARGE SUMMARY

A 65

KEVELSON NATHAN S234-2
1070 E 19 ST BK
047226-6 M 7 3 74 MESH
SP LD SE 8 2154
DRS ROSENBERG RUBIN LATAZ
103 01 2122 1

Chief Complaint on Admission:

*Myocardial
A-V block*

Present Illness:

*Patient admitted because of
complaints of implantation pneumonia*

Past History:

per embolism

Positive Physical Findings on Admission:

thin usual heart

Positive Laboratory Findings:

EKG: A-V block

EXHIBIT "G"

Case in Hospital:

Admitted on 7-3-74

Permanent pacemaker
implanted on 7-5-74

Post-op. uneventful

Discharged on 7-12-74
Unimpaired

Disposition of Case (Prognosis - Advice given patient on discharge):

Referred to office
for follow up

Signed:

C. F. Hickey

[illegible]

Office Notes:

FACE SHEET

A 68

KEVELSON NATHAN 5231-2
 1070 E 19 ST BK
 047226-6 H 7 3 74 USCH
 SP LO DE 8 2154
 DRS ROSENBERG RUBIN LATA
 103 01 0499 A ME

Admission *Low Sodium*
 Diet *Low Sodium*

Chest X-ray Stamp

Summary
 Dictated

(Physician's Name & Date)

Admission *7-3-74*
 Date *3:00 PM*

MARITAL STATUS ()

Single () Widower () Married (☒)
 Divorced () Separated ()

Other Patient Data

Tel. No. *DE 8-2154*No. Living Children *2*

Next of Kin

Lillian
Wife
 Relationship

Stephen
Son

Referring Physician:

Tel. No. *516-791-2740*

Admission Diagnosis:

Heart Block

FINAL DIAGNOSIS: (Please Print)

Code No.

Result

Sick sinus syndrome 427.9 ☒

OPERATIONS: (Include All Procedures and Dates)

Implantation permanent 30.5 ☒
pacemaker (GE Standby)

COMPLICATIONS:

Medical Records Dept:

Approved By

C. Fuchskey
 Attending Physician

DATE
LAST
FIRST
ACTION
NO.
ENDING
PHYSICIAN
PAGE

KARLSON N.
1

USE THIS SIDE FIRST

PLEASE DATE AND SIGN ALL ENTRIES

4/10. Attending Note
66 Y/O W/M admitted for implantation
of pacemaker. Had evidence of deep
breath apnea. Atrial fibrillation
in May 74 which upon observation
became functional rhythm. Had
marked sinus brady cardia - despite
administration of digitalis. Rate has
improved very slowly.
Patient by Dr. Simon Jack - who
occurred in diagnosis & treatment.

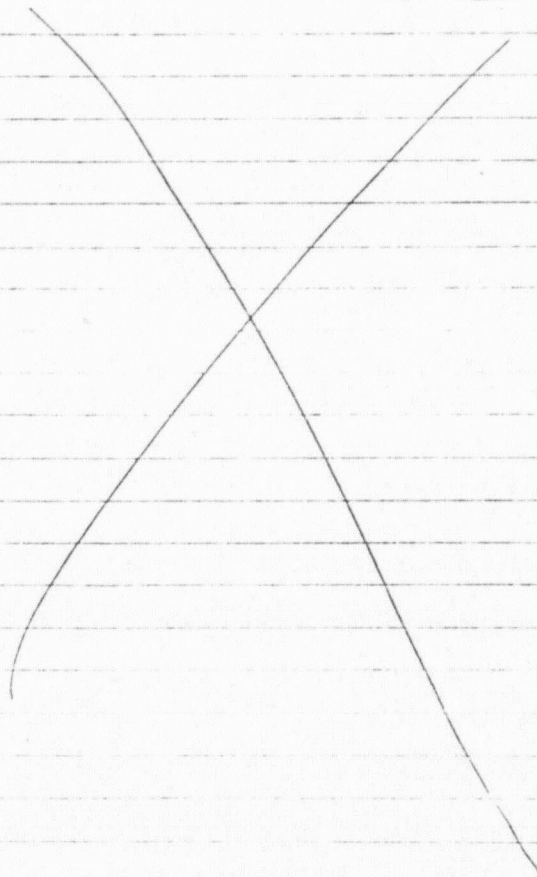
Past hx - cholecystitis

Revised W/O W/M signs and symptoms
P.R. 5/10 P-38/min, irreg
No known disturbance
Vitals - clear to PVA.
No enlarged a. appearing as per last
do not know exact cause. Pericardial
effusion A-20 cc
Chest - soft nondistended. Thorax of
P.M. No other organs (left)
R. chest - no abnormalities
Prostate normal
P.R. - no edema

(OVER)

Dr. J. J. [unclear] [unclear]
Chronic Cholecystitis

Recovery



MO. DAY YR.
LAST FIRST
LOCATION
SP. NO.
ATTENDING PHYSICIAN
PAGE

A 71
MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL

REVELSOOR PROGRESS SHEET-2
1070 E 19 ST BK
047226-6 M 7 3 74 M66H
SP LD DE 8 2154
DRS ROSENBERG RUBIN LATER
103 01 0489 A MED

USE THIS SIDE FIRST

PLEASE DATE AND SIGN ALL ENTRIES

7-3-74

Hx PT - CC 40. 100? on entire physical a few weeks ago was found to have cardiac arrhythmia. This was followed and had several drugs etc. at or a few day prior to admission was noted to have very slow heart rate about 40/min and it was suggested to be hospitalized for further evaluation.

Phlebotomy SOB, PRR, PND, chest pain or any symptoms at all during the last 3-4 weeks.

PE - R2 - 154/20 pulse 40/min reg.

FEAL -

Heart Reg. PMB no murmur or gallop

Chest - clear

Abd - obese - no tenderness - no bowel sounds.

Imp. Supraventricular ^B
~~Brady~~ Bradycardia by EKG

PLAN - As in attending's Note -

J. Abramson
Tobian

7-4-74

Called from this at 11 AM. Re-education at 44 beats per minute. Both 1 PRR and 1 PRR monitor. It shows no symptoms. State "is felt good" Continue slow heart rate.

J. P. Smith

7-4-74

Pulse rate around 48/min. at the present time.

Remnant placenta will be replanted tomorrow.

C. Fickelberg

7/6/74-

Patient had PACE MONITOR

PLACED - CONDITION GOOD

HR 130/min

lungs are clear

Heart Pump at 72/minute

ABG - 8/10

By Randy RD

7-6-74

Placenta, functioning well at 72/min. Aftable.

C. Fickelberg

7-8-74

Aftable, doing well.

1/8 (Dose) morphine, (R) foot
exposure started - long 1/2 of 1 hour
R. 4/10/74

PLEASE SIGN AND DATE ALL ENTRIES

C. Fickelberg

MO.	7	73
DAY	19	74
YR.	19	74
LAST	19	74
FIRST	19	74
ROOM	19	74
NO.	19	74
ENDING	19	74
PHYSICIAN	19	74
PAGE	19	74

A 73 73
 MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL
 PROGRESS SHEET

USE THIS SIDE FIRST

PLEASE DATE AND SIGN ALL ENTRIES

1/9 (P) large left swelling, inflamed
 & tender. On 7-10-74 - 10-74
 10-74
 10-74
 10-74

R. Fisher

7-9-74

Very well, afebrile, painless
 fundus well. L. Fisher

The I have improving gradually.
 10-74

May be discharged at discretion of
 surgeon

R. Fisher

7-11-74

Good, afebrile; painless fundus well and
 wound is clean; the gastric & duodenal
 improved.

10-74
 10-74

7-8-74 Pt. of afebrile; gastrocnemius functioning well; pulses regular; incisions healing without infection.
There is acute inflammation of Rt. lesser toe with erythema and positive "pusky sign".
Patient has long history of gout.

7-12-74

Afebrile, incision healing well. Gastrocnemius functioning well to be discharged.
P. Fletcher

MO.
DAY
YR.
LAST
FIRST
MIDDLE
INITIAL
FINDING
SICIAN
PAGE

KEVELSON NATHAN S 34-2 A 75 11
 1010 E 19 ST BK MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL
 047226-6 M 7 3 74 466H
 SP LD DE 8 2154
 DRS RO EVERGO RUBEN LA 48
 103 01 0489 A MED

PROGRESS SHEET

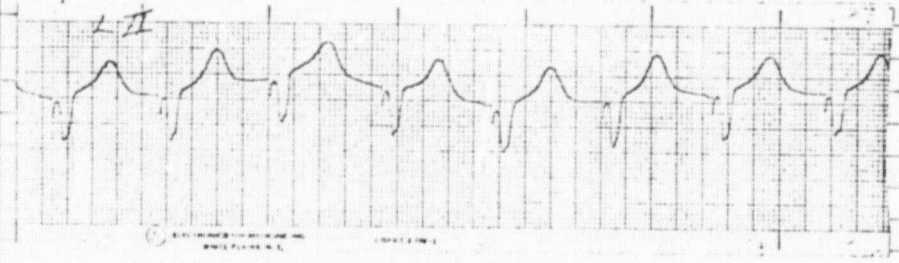
USE THIS SIDE FIRST

PLEASE DATE AND SIGN ALL ENTRIES

July 5, 74

PATIENT HAS RR 11/60
 Lungs clear - Heart - VA 40-41
 GENERAL CONDITION GOOD
 PATIENT TO HAVE PACEMAKER INSERTED
 BECAUSE OF "SICK SINUS SYNDROME" &
 EXTREMELY SLOW HR 10-15 TIMES &
 ARRHYTHMIA (Ventricular Hts at 34 m
 some stimulation) Cleared for surgery
 By Ronald Wood

7-5-74 Implantation of permanent transvenous
 pacemaker (EE Demand) - Threshold 0.15 m sec
 pulse width



C. F. Fisher

7/8/74 EEG recorded 74-1088
 K. L. Lerman (su)

(OVER)

7-9-74

apfelholz,
 Paumotu functioning well.
 infection clear.

Zoffman

11/12/74 - Dictation Note:

Patient requested
 a discharge diet at the advice of the
 physician. Gave him a L.S. L. Purnell
 diet and cautioned him about using it
 without the doctor's permission.

M. Monson

7-12-74

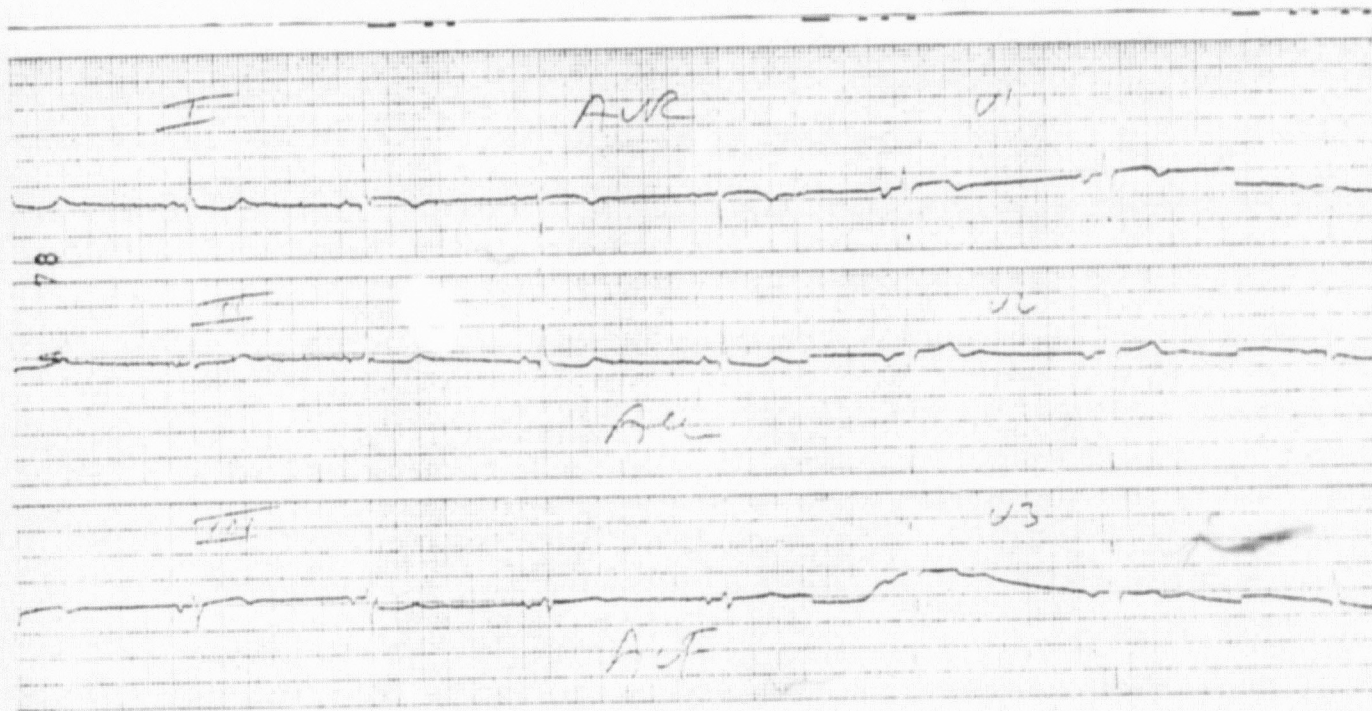
To be discharged.
 Improved.

C. F. Fisher

Revelson Nathan

5234

103 01



103 010787

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PRINTED IN U.S.A.

7/31

Diagnostic Codes: _____ Serial E.C.G. No. _____

Kervelson, Nathan

5234

103



A

047226-6 M 7 3 21 166H
SP LD DE 8/21/51
122 ROSENBERG R 514 12
103 01 0482-4

PREVIOUS E
7/1/74
AMBIATORY
☒ YES ☐ NO
FORM FILLED OUT BY:
ATTENDING PHYSICIAN:
BLOOD PRESSURE:

NOTE: PATIENT IDENTIFICATION PLATE MUST BE CLEARLY LEGIBLE
CLINICAL DIAGNOSIS

REASON FOR REQUEST:

Arrhythmia
Pacemaker Function

WAS IT ELEVATED IN THE PAST:
☐ NO ☐ YES

HOW LONG?

DRUGS AND DOSAGE

HAS THE PATIENT RECEIVED:

DIGITALIS DURING THE LAST 4 WEEKS ☐ YES ☐ NO
OR DURING THE LAST WEEK ☐ YES ☐ NO
OR ANY OTHER CARDIAC DRUG, NAMELY: ☐ YES ☐ NO

Rate:

A:

P-R

QRS

Q-T

Axes:

P

QRS

T

Description:

Kevelson Nathaa 5234

Pacemaker arrhythmia

2700

7/9/74 ab

Dr. Arvah

Rhythm:

Conclusion:

Codes:

Serial ECG No.
Interpreter:



75
7/9/74

MAIMONIDES MEDICAL CENTER
MAIMONIDES HOSPITAL

X-RAY DEPARTMENT

X-Ray Reports to be pasted on in chronological order

KEVELSON, NATHAN 5234-2 M66yrs. AAT 103-01-0489A 7/3/74 XR#19786/74

CHEST PA AND LATERAL: Reveals the heart to be enlarged. The posterior border of the left atrium cannot be well visualized. There is elevation of the lefthemidiaphragm and blunting of both costophrenic angles on the frontal film and of the left posterior vertebral phrenic angle on the lateral film. The pulmonary vasculature is engorged.

IMPRESSION: BILATERAL PLEURAL EFFUSIONS, GREATER ON THE LEFT WITH ELEVATION OF THE LEFT HEMIDIAPHRAGM. PULMONARY VASCULAR ENGORGEMENT WITH PARENCHYMAL INFILTRATES COMPATIBLE WITH PULMONARY EDEMA, HOWEVER PNEUMONITIS CANNOT BE RULED OUT. CLINICAL CORRELATION SUGGESTED. Dr. Bard ss 7/8/74

KEVELSON, NATHAN 5234-2 M66yrs. 103-01-0489A 7/9/74 XR#20373/74

CHESTPA AND LATERAL VIEWS: Compared with the previous study, reveal a pacemaker in the left anterior chest wall with the catheter tip in the right ventricle. The cardiac size is unchanged from previous films, however, the bilateral pleural effusions and the pulmonary engorgement noted previously are no longer present.

IMPRESSION: INTERVAL APPEARANCE OF PACEMAKER AND DISAPPEARANCE OF CHANGES OF CONGESTIVE HEART FAILURE. D

Dr. Bard ss 7/10/74

DATE	047226	PATIENT NAME
TESTING STATION		
2234 CLINICAL SERVICE		
6/30		

HEMATOLOGY

BANDS &

SEGMENTED &

EUSINOPHILES &

MONOCYTES &

LYMPHOCYTES &

WBC (THOUSANDS) ...

RED BLD CELL (MILLIONS) ...

HEMOGLOBIN BLOOD G & ...

HEMATOCRIT & ...

URINALYSIS

COLOR-APPEARANCE

SPECIFIC GRAVITY

PH URINE

PROTEIN

SUGAR

KETONE

WBC/HF

CELLS

CHEMISTRY

CHEMISTRY PROFILE

UROLOGY

RPR

PATIENT SUMMARY

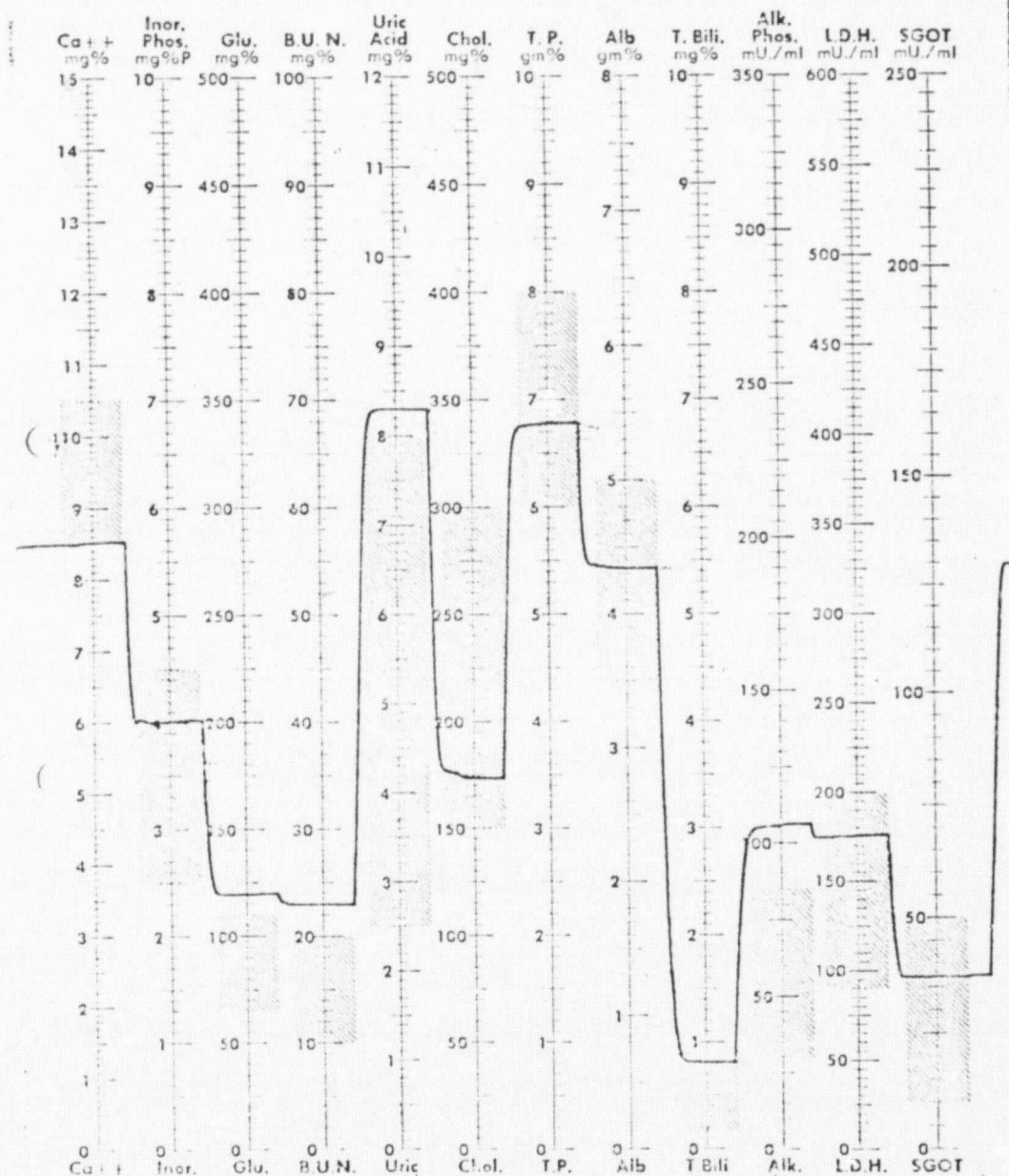
REPORT DATE REPORT TIME PAGE
7/05/74 21100 PM

1995 年 12 月 15 日

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SA.UNDAY
7/01/74	7/02/74	7/03/74	7/04/74	7/05/74	
		13			
		53			
		1			
		8			
		25			
		8.0			
		4.57			
		14.1			
		45.3			
		YELL CLR			
		1.011			
		5			
		NEG			
		NEG			
		NEG			
		1-4			
		SQUAM			
		SEE CHART			
				NEGATIVE	

A 84

20



332 37-13 74 232 5161 KEVELSON NATHAN 5234 047226 A.A.T.
 | 335 243 123 333 | 334 | 175 271 441 338 135 | 177 | 338 # |

MAIMONIDES MEDICAL CENTER
MAIMONIDES HOSPITAL

VITAL SIGNS RECORD

*A = Apical
R = Radial

DATE	TIME		TEMP.	PULSE		RES.P.	B.P.	REMARKS	NURSE'S SIGNATURE
	AM	PM		A	R				
7/11		12	98	46		20	118/70		
7/14	2		98	17		18	140/60		My Carter
	4		98	38		18	120/70		"
	6			40		18	118/60		"
	8		98	44		18	118/70	Medicine Dr. in	Quilley
	9			44		20	140/70		"
	11		98	50		20	130/70		"
	2			48		18	136/70		"
	4		98	40		20	110/70		W. G. Brown
	6			48		20	109/70		"
	8		98	40		20	108/60		"
	10			44		20	107/60		W. G. Brown
7/14	2		98	40		20	107/60		W. G. Brown
	4			42		20	107/60		"
	6		98	40		20	110/60		W. G. Brown
	8			40		20	140/64		Quilley
	2		98	48		18			
	4							TO OR -	
	6		98	80		20	118/70	Paracetamol in	Quilley
	8			84		18	140/68		"
	10			80		20	135/72		"
	2		98	80		20	120/70		W. G. Brown
	4			80		20			
	6			84		20			
	8			84		20	130/70		
	10			80		20			W. G. Brown
	2		98	80		20	107/70		W. G. Brown
7/15	1			80		20	107/70		
	2			82		20	130/70		
	3			82		20	130/70		
	4		98	80		22	130/70		

R = Radial

H

00

DATE	TIME		TEMP.	PULSE*		RESP.	B.P.	REMARKS	NURSE'S SIGNATURE
	AM	PM		A	R				
1/7/74	8			80	22		121/70		W. B. B. W.
	4 1/2		98.4	80	22		127/70		W. B. B. W.
	6			80	20				
	8		98.6	80	20		127/70		
	10			80	20				W. B. B. W.
	12		98.2	80	20				
	2		98.0	80	20				
	4			80	20		107/70		
	6			80	20				W. B. B. W.
	8		98	76	18		110/70		W. B. B. W.
	12 30		98.4	72	20		132/70		"
	4		98.4	80	20				
	8			80	20		127/70		
	12		98.4	80	20				W. B. B. W.
1/7/74	2			80	20				
	4		98.4	80	20		110/70		
	6			80	20				W. B. B. W.
8/7/74	8		98.4	72	18		134/70		W. B. B. W.
	10			72	20		140/70	Exhausted (Exhausted)	"
	11 30		98.4	72	20		140/70	TOOK GIVASTITCHES	"
	11 30			72	20				"
	1 1/2		98.4	80	20		127/70		W. B. B. W.
	8		98.2	78	20		127/70		W. B. B. W.
	10			78	20		110/70		
9/7/74	12		98.2	78	20		120/70		W. B. B. W.
	2			78	20		117/70		
	4		98.4	78	20		110/70		
	6			80	20				W. B. B. W.
	14		98.2	80	20		110/70		W. B. B. W.
	8		98.4	78	20		127/70		
	10			80	20		127/70		
	12		98.4	80	20		110/70		
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	4		98.2	80	20		127/70		
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	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
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	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
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	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
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	2			80	20				
	4		98.2	80	20		127/70		
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	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				W. B. B. W.
	12		98.2	80	20		110/70		
	2			80	20				
	4		98.2	80	20		127/70		
	6			80	20				

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KEVELSON NATHAN 5234-2
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MAIMONIDES MEDICAL CENTER
 MAIMONIDES HOSPITAL

DOCTORS ORDER SHEET

UNIT

ORDER GIVEN			ORDER	CHECKED	
DATE	TIME	DOCTOR		TIME	NURSE
7/3		Rosen	THE DISPENSATION OF THE GENERIC FORMULA EQUIVALENT OF THE DRUG ORDERED BELOW IS AUTHORIZED. Cardiac monitor - B.P. for PM only Low salt diet Atropine 0.4mg P.O. 7th - 1st dose 100 P.M. Vital signs q 4h Oral hydrate grates as given	7/3	J.M.
7/4		Rosen	Sign consent for & accompanied NPO after breakfast 10:00 AM Pharynx 25mg 1st Pharynx 25mg 2nd today	7/4	J.M.
7-5-74		1/0 C. Fuhlen	(1) Resume pre-op orders throughout except atropine (2) b/c atropine (3) E.C.A. (4) Chest x-ray } s.m. (5) If pulse < 60 or very irregular call me (6) Precedan 1 tab po q 4h per pain (7) VS q 4h today - then bid (8) SOB ad lib	7/5	J.M.

(CONTINUE ON REVERSE SIDE)

DOCTORS ORDER SHEET

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UNIT

ORDER GIVEN			ORDER	CHECKED	
DATE	TIME	DOCTOR		TIME	NURSE
			THE DISPENSATION OF THE GENERIC FORMULA EQUIVALENT OF THE DRUG ORDERED BELOW IS AUTHORIZED.		
7/6		Kenny	Milk of Magnesia - 3 T - on 7/11/74 Ben - calcium 54 hr CPK	SMO	/ J.W. Lee
7/8		Robson	Calcium Ox 1/100 glac & P.H. until relieved add clonidine + diazepam or yam sedation Defernal 100mg q 12 Change to low protein diet low salt diet when 24 hours occurs P.H. 6.0 - 3 T stat then 3 T q 3 hr P.H. 7.0 low salt		
7/9		Robson	Calcium Ox 1/100 BID		JS 7/9
7/12		Robert	Discharge this A.M. if O.K. with N. K. M. L.		

(CONTINUE ON REVERSE SIDE)

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MAIMONIDES MEDICAL CENTER
MAIMONIDES HOSPITAL

NURSE'S NOTES

KEVELSON NATHAN 5234-2
1070 E 19 ST BK
047226-6 M 7 3 74 M66H
SP LD DE 8 2154
DRS ROSENBERG RUBIN LATAR
103 01 0499 A MED

ADMISSION DATA

ADMITTED AT	A.M. <input checked="" type="checkbox"/> P.M. <input checked="" type="checkbox"/>	DR. (Name)	NOTIFIED AT A.M. <input type="checkbox"/> P.M. <input type="checkbox"/>
ADMITTED	<input type="checkbox"/> Ambulatory <input type="checkbox"/> Wheelchair <input type="checkbox"/> Stretcher	Examined by Dr. (Name)	
ADMITTED BY <i>[Signature]</i>	(Nurse's Name)	Admitting Diagnosis:	
PROPERTY LISTED BY <i>[Signature]</i>	(Nurse's Name)	Child Baptized	<input type="checkbox"/> Yes <input type="checkbox"/> No
URINE SPEC. TO LAB. T <i>7/3</i> P <i>10:4</i> R <i>70</i> B.P. <i>133/40</i> WT. <i>172</i>	(Time)	Bruises or Pressure Areas Area on Body:	<input type="checkbox"/> Yes <input type="checkbox"/> No
C B C REQUISITION MADE OUT	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

Patient's complaints and nurse's observation:

*Admitted to unit seen by DR Rubin
In no acute distress, Yr monitor - called
for - now available at present - 9pm
Monitor attached, Regular sinus rhythm
glib*

DATE	TIME		NURSE'S NOTES
	AM	PM	
7/3	3-	"	Admitted to unit seen by DR Rubin In no acute distress, Yr monitor - called for - now available at present - 9pm 11pm Monitor attached, Regular sinus rhythm glib
7/4/74		12	Pt awake offered no complaints cardiac monitor Reg. Sinus Rhythm 108, V4 R 20 P/P 95bpm Appears comfortable Settled to sleep 2pm Atropine 2mg given as ordered 20 108/60 P37 R18 Cardiac monitor functioning - no PVC's noted

(OVER)

DATE	TIME		
	AM	PM	
11/17	2 ⁰⁰		Unable to sleep.
			Medicated for sleep.
	5 ⁰⁰		Slept at intervals.
	7 ⁰⁰		Complete bedrest & oral hygiene given.
			Did not void in this shift.
			Conclusions - Ca -

M. Canty

11/17	7 ³⁰		Patient awakened comfortably lying in bed.
			Cardiac monitor functioning well.
			Tgs 144/118 BP 118/70.
			Color good. Skin warm & dry - In good spirits & denied any pain.
			Breakfast taken well by self - Dr. by House D.
	8 ⁰⁰		Entered room 0.4 m 8 given PO.
			Voided 30cc clear urine.
	11		Partial bath given - linen changed.
			Seen Eubaker in explained pretest procedure.
	12		Lunch - eaten well.
			(Occasional PVC's noted - House D. awake.)
			Blood for Electrolyte taken.
			Visiting 2 wife & relatives.
	2 ⁰⁰		Voided 325cc clear urine.
			General condition fair - Dr. by House D.

11/17	3 ³⁰		Pt awake family at bed side.
			V/S taken & recorded - P 140 Reg.
			Cardiac monitor at bed side, occasional PVC.
			Appears comfortable at this time.
			Washing for short period.
			Early PM care.
			Ate supper well.
	4 ⁰⁰		Family visited.
	4 ³⁰		Thapsid given PO as ordered.
	8 ⁰⁰		Resting.
	9 ⁰⁰		Complete PM care. Oral hygiene.

KEVELSON, NATHAN S. 5-23-72
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NURSES' NOTES -
 CONTINUATION SHEET

DATE	TIME		NURSES' NOTES
7/4	7 ³⁰		Patient awakened, comfortable, in bed, & appears special complaint - 1984 P80 R 18 B/P 124/70 Dressings dry & intact - Break fast - taken well - Voided q.s - OOB walked in corridor, no ill effect - stating that previous numbness from R hand is gone Seen by Dr. Rosenbergs & examined by same - Mom 3000 gms Seen by Dr. Fuchter Dressings changed by House Dr.'s Pericard & tub given for pain OOB - sitting in chair most of day Lunch - eaten well Back care done - Had a good day L. Milagros Rn
	10		
	10 ¹⁵		
	10 ³⁰		
	3 ³⁰ pm		Pt awake, sitting in high Fowler's position 198 P80 (R9) R 20 B/P 120/70 Appears comfortable 5pm Ate supper OOB & no ill effect Walked to assistance 7pm Family at his side 8 ³⁰ pm Routine p.m. care 1986 P80 R 20 B/P 120/70 Offered no complaints OOB - had a small B.M. Settled for bed Spent a quiet p.m. 1980. Skin warm - no complaints
	9 ³⁰		
	10		

DATE	TIME	NURSES' NOTES
1/7/74	11 ³⁰ 10 ⁰⁰ 2-4 6am	Asleep 1982 P80 R20 B/P 120/70 Slept 1000 B. to B.R. voided q.s. Routine am' care of U.K. hygiene Offered no complaints U/c Talk U.S. 12/2/74
1/7/74	7 ³⁰ 10	Patient awakened, appeared comfortable - T 98 - 76-18 B/P 110/70 Breakfast & lunch taken well - Complete bed bath given - linen changed O.B. walked in corridor, no ill effect - Dressings dry & intact - Voided q.s. Relatives in - Had a good day - U.S. 12/2/74
1/8/74	3 ³⁰ 10 ⁰⁰ 1-8 10	1000 B. & Family - appears comfortable. T 98 - P 80 R 20 B/P 110/70 House DR visited, & examined reddens on foot - Diet change - Had a fish dish, & enjoyed same Sat q.o.B. for a long period. Family visited. Routine p.m. care. Back to bed & no ill effects U/c Talk U.S. 12/2/74
1/8/74	11 ³⁰ 4am 5 7am	Asleep - P 80. Slept for long periods Woke complaining for pain in foot - Medicated for same. Asleep - foot elevated Still asleep U.S. 12/2/74

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MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL

KEVELSON NATHAN 5234-2

1070 E 19 ST NY

047226-6 M 7 3 74 M66H

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DRS ROSENBERG RUBIN LATAR

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MED

DATE	TIME	NURSES' NOTES
7/4/74	8 ³⁰ AM	Made as comfortable as possible
	10 ³⁰ AM	Asleep
	11 ³⁰ AM	Asleep
7/5/74	11 ³⁰ AM	Pt is still asleep appear comfortable. <i>W.B. Bregis</i>
		P40 Reg.
	2 PM	Cardiac monitor occ. PVC
		Medicine given PO as ordered
	6 AM	Sleeping for long periods
7/5/74		Radial AM tube
		DR Rosenberg visited
	7 ³⁰ AM	Made no special complaints
7/5/74		Pulse 40 Reg. <i>W.B. Bregis</i>
	7 ³⁰ AM	Bed bath given - well tolerated
		Breakfast eaten well
		T 98° - P 98 - R 18 BP 140/68
		Seen by Dr. Fuhrkin
		Cardiac monitor disconnected - Verified.
		300 cc urine
	9 AM	Dormet 25 mg } given in 4 hr
		Phenone 25 mg }
		Taken 40 DR
	11 ³⁰ AM	Returned from OR awake Reg. from anesthesia
		Clen good - skin warm & dry.
		T 98° - P 80 - R 20 BP 118/70
	12 ³⁰ PM	Lunch - eaten well
	2 ³⁰ PM	O O B to bathroom - had a small BM voided
		G.S.
	3 PM	Back to bed

DATE	TIME	NURSES' NOTES
7/5/74	2:30	End - 131 132/72 S. 80 House 20's in - Dressing day contact. Fair po day - 2 Inlay Rn -
1/6/74	3:30	Pt asleep. skin warm & dry to touch Color good. 198 P80 R22 B/P 120/80 Family at bed side Dressings dry & intact
	4:20	Asleep
	5	Ate Supper well
	7-8	Family at bed side DR R Benberg call regarding pt condition Pulse Rate 80/m
	8pm	198 P80 R22 B/P 120/80 Color continues to be good. skin warm & dry - Pt is very alert Routine PM: Care & special care to pressures areas & voiding q.s.
	9:30	Medicated for pain q.s.
	10	Asleep
	11:30	
1/6/74	11:30	Pt asleep. UG Brees
	2-4	P 80 R22 - Color good, skin warm U/s taken & recorded Sleeping for long periods Repositioned & skin care.
	4	198 P80 R22 B/P 120/80 Routine AM care. Oral hygiene U/s & nail check
	7:30	Sitting in chair. Color good P80 Spent a quiet night UG Brees

KEVELSON NATHAN 5234-2
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MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL

NURSES' NOTES -
 CONTINUATION SHEET

DATE	TIME	NURSES' NOTES
7/5/74	7 ³⁰	Seen by Drs. Rosenbergs & Rubin. Calcimine C.R. 100 commenced for swelling and on foot. Complete bath given. CAB machine and elevated to R/L this PM via stadi- wheel chair.
"	"	Calcimine started due on their Cilapurnal ordered. Fair day.
	3 ³⁰ pm	U/L's sitting in chair & foot elevated Family at bed side. U/L's taken & recorded.
	4 ^{pm}	Medication given as ordered.
	5 ^{pm}	Ate Supper well.
	7 ³⁰ pm	Back to bed, & elevation maintained.
	9 ^{pm}	Visitors at bed side. Routine pm care, & special care to pressure areas.
	10 ^{pm}	Back to bed - foot elevated Sleeping medication. Pulse rate Reg at 78 to 80/m. Asleep.
	"	U/L's
7/9/74	11 ³⁰	Pt asleep - foot elevated
	12 ⁴⁵	U/L's taken & recorded.
	2 ^{am}	Sleeping for long periods.
	4	Taking fluids well.
		Appears to be very restless during sleep.

(CONTINUE ON REVERSE SIDE)

DATE	TIME	NURSES' NOTES
7/8/74	6am	100% Lim Care Reddeness on Right foot remains Same kept elevated throughout the night - Spent a quiet night H. G. B. W.
7/9/74	7 ³⁰	Found 00B in Chair & pt leg elevated - By the way pt for this pt & swollen -
	8 ⁰⁰	W's taken 98.72 - 20 12/90 -
	9 ³⁰	Ate lunch good - appetite good - Complete bed bath & back care given. On left leg on outer surface pt has a patchy raised red surface. Shed by Dr's Custer & Rosenburg -
	10 ³⁰	00B walked for short distance 5 ft much pain - when putting on legging in bed pt leg is elevated
	11 ³⁰	Shed by Dr. Funder W's taken 97.72 - 20 12/90 -
		Ate lunch - appetite good -
	1 ³⁰	Visited by family -
	3 ⁰⁰	Fair day - Visited by - had 2 B's -
	3 ³⁰	Tox - 1.4 in white - J. G. B. W.
		Pt at X-ray at this time
	1 ³⁰ 5pm	Returned, W's taken & recorded. OK & taken. Ate Supper very well Reddened area on Rt foot still Red & Swollen. Same kept elevated.
	7 ³⁰ 9pm	Family Visited 100% Routine, pm care, back care made as comfortable as possible 1982 P 80 R 80 B 20 B/P 120/80 Spent a quiet 7pm. H. G. B. W.

KEVELSON NATHAN 5234-2
1070 E 19 ST BK
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DRS ROSENBERG RUBIN LA'AR
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FORM NO. 10

MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL

NURSES' NOTES -
CONTINUATION SHEET

DATE	TIME	NURSES' NOTES
7/10/74	1130	Pt asleep. Rt foot elevated, maintained Slept for long periods. Fluids taken well during the night. Foot remains red, but not so painful. 100% AM Low Sitting OOB at time of report - W.D. Buis
7/10/74	730	Pt states he had a good night. I's taken of this & remains stable & afebrile. Rt foot above rt toe still remains red & somewhat swollen. Appetite good took for breakfast & lunch - completed both. Throat care given. OOB at intervals & by elevator - walked in corridor & to nurse difficulty seen by Dr's Carter & Callon. this time pt's reddness of rt foot appears to be extending upward although pt has no complaints. Visited by family from father's day. Voided 8x. J. Oppenheimer

DATE	TIME	NURSES' NOTES
7/10/74	3 ³⁰ 11 ³⁰	<p>Pt in bed comfortable. Relatives at bedside. V/S checked. Tgs. P 65 R 206/pa. Area on Rt. Lt. toe slightly inflamed cool to touch not painful. O.B. to B.R. Voiding: sheet taken well, appetite fair. Medications contd. O.B. walking ad lib. Routine pm care given. Back rub. pt. made comfortable.</p> <p>8 pm Sleeping. No complaint. Bld draws.</p>
7/10/74	11 ³⁰	<p>Pt asleep - appears comfortable. Right foot elevated. toe still slightly inflamed.</p> <p>1. Urine taken & recorded.</p> <p>2 am Fluids on tolerated.</p> <p>6 am O.B. Am care. Spent a quiet night - Rt. Lt. toe still inflamed. Elevation maintained throughout the night.</p> <p>7. No complaints - spent a quiet night.</p>
7/11/74	7 ³⁰	<p>W. G. Price</p> <p>Patient in bed, appeared comfortable, no special complaints @ this time. Color good - V/S stable - O.B. sitting in chair. Seen by Dr. Rosenberg. Breakfast & lunch taken well - R foot elevated - Area less reddened. Complete bed bath given - linen changed. Suture line clean.</p> <p>Seen by Dr. Furken, & Dr. Allan.</p> <p>2. Visiting & family - Voiding well. Had good B.M. Had a good day.</p>

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MAIMONIDES MEDICAL CENTER - MAIMONIDES HOSPITAL

NURSES' NOTES -

CONTINUATION SHEET

DATE	TIME		NURSES' NOTES
7/11	3 ³⁰	11 ³⁰	<p>Pt comfortable relatives visiting V's checked and recorded D.O.B. Ad Rt foot kept elevated, inflammation less, no pain today. Ate supper well. Voiding q.s. 5pm Medications continue as ordered. Resting on and off. Had routine 7:45pm pm care. No complaints tonight 11:15pm Condition remains satisfactory. Asleep. B.K. Adams</p>
7/12	5 ⁰⁰	7 ³⁰	<p>12:00 Pt asleep - appears comfortable. V's checked & recorded. Slept for long periods 10:13 am. Care necessary change of linens 7:30 am Offered ice complaints - Spent a good night M. G. Adams</p>
7/13	7-9 ³⁰		<p>Disch. via wheelchair accompanied by relative. R. T. R. H.</p>

(CONTINUE ON REVERSE SIDE)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
-against- : 74-CR-370
AL KEVELSON and :
NATHAN KEVELSON :
Defendants. :
-----X

United States Courthouse
Brooklyn, New York

December 11, 1975
9:15 o'clock A.M.

B e f o r e :

HONORABLE JACK WEINSTEIN, U.S.D.J.

HENRY LEGENDRE
ACTING OFFICIAL COURT REPORTER

Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: J. CADEN, ESQ.
Assistant U.S. Attorney

HYMAN L. ZOLOTO, ESQ.

AND

STUART SHAW, ESQ.

1 THE CLERK: U.S.A. versus Kevelson.

2 MR. ZOLOTO: If the Court please, I bring
3 this motion for a continuance orally or alternatively
4 for medical severance. The defendant Nate Kevelson
5 was represented by Joe Brill, Joe Brill was sick for
6 a long time, cancer, ultimately died. I believe from
7 what I have been told there was no consultation and
8 not too much discussion with Joe Brill and/or all of
9 his clients for a long time. Then the Grunwald firm
10 got into the case, represented both the defendants
11 and then sometime in the early part of August, 1975,
12 based upon the theory that there might be a conflict
13 of interest I was retained to represent Nate
14 Kevelson.

15 On August 18, 1975 we had a pre-trial
16 conference with your Honor and I for the first time
17 met John Caden, and after we got through with the
18 pre-trial conference we visited with John Caden in
19 his office, I, Mr. Shaw; and I told John Caden I just
20 got into the case, I had a few commitments I had to
21 fulfill -- and no question about the trial date. I
22 agreed we would be ready, I didn't even talk too much
23 to Mr. Kevelson, but upon a cursory reading of the
24 file I told him the first thing on the agenda I was
25 going to move for was for a medical severance.

1 The next meeting or discussion that I had with
2 the Federal attorneys was, I was invited to a
3 conference, I state I don't know what I was there
4 for because I was going to make this motion. I said
5 that to Mr. Trager. Mr. Trager said he wouldn't try
6 the defendant if he's too ill to be tried. I dis-
7 closed the doctors that I was going to use, that was
8 on September 18 -- for some reason or other it
9 becomes difficult to make appointments with doctors,
10 so I couldn't complete this within sufficient time.
11 Low and behold on October 13 in the midst of this
12 examination being arranged, I think that Mr. Kevelson
13 was examined by Dr. Dack on October 16, and I had
14 arranged for Mr. Kevelson to be examined by Dr.
15 Charles Poindexter. I disclosed to the Federal
16 attorney that I would want an independent cardiologist
17 of eminence to prove what I heard and what I was told.
18 I got sick. I recognize that time was of the essence.
19 For some reason or other, once I knew that I did not
20 suffer any permanent heart damage, I could practice
21 law, I could try cases starting January, I was given
22 that permission. I wanted something to do with this
23 motion and, so, I tried to do the best I could, and
24 the first week I came back to my office I was told
25 I could work two hours a day, I cheated and worked

1 three hours a day, called John Caden and said, here
2 I'll give you the reports, all the doctors that I
3 have -- "No, bring the motion."

4 I prepared the papers with the least amount --
5 this is really not my thing -- I should have assigned
6 someone to it. In addition Mr. Shaw who had obliga-
7 tions, we did the best we could. We took the
8 hospital reports and submitted them all to you
9 together with every medical backup; together with
10 the Maimomides report. We gave you a copy (speaking
11 to Mr. Caden) and they say in essence -- I also make
12 a statement, I think in my petition, that should the
13 Court desire we could go to the doctors and get the
14 affidavits to back up everything that they say; and
15 in capsuled version, what do the doctors say.

16 I pointed out to the Court in my petition,
17 from the background of these men, the type of doctors
18 that are saying what they are saying, who they are.
19 I have never seen qualifications of a doctor in all
20 the years of my practice as that of Charles Poindexter.
21 He told me he testifies for the Government in cases
22 and is called in.

23 I think also Dr. Dack, but I'm not sure he
24 does for the Government, I know he's testified in
25 cases.

1 I have never seen eminent qualifications as
2 that of Dr. Charles Poindexter and Simon Dack; and
3 Dr. Poindexter said Dr. Dack is one of the foremost
4 cardiologists we have in the country; and Dr.
5 Rosenberg treating Nat Kevelson since 1967, his
6 qualifications impressed me. He said way back in
7 1967 he suspected a heart condition.

8 If you read the report "going downhill" and
9 then he says, "he might not be able to survive the
10 ordeal of a courtroom trial. He's going to be
11 examined on December 16 because he's treated by Dr.
12 Rosenberg, and I've offered this, and I will state
13 this, we could furnish you a report of that examina-
14 tion, should the Court so desire and/or the Federal
15 attorney's office.

16 Dr. Rosenberg at one time said he had a heart
17 beat as low as 30 that necessitated implantation of
18 the pacemaker.

19 Dr. Dack was the consultant specialist that
20 Dr. Rosenberg called in. I asked Dr. Rosenberg,
21 let's find out what Dr. Dack says today. He says
22 "There is a critical evidence of arteriosclerotic
23 heart disease with considerable enlargement -- he
24 has a trial pending the Federal Court in January '76,
25 it would be my opinion that such a trial would result

1 in considerable aggravation of his angina; that he
2 would run into the danger of precipitating coronary
3 insufficiency of myocardial ischemia.

4 Dr. Poindexter uses language that scares me
5 most respectfully. He says, "I think a trial
6 procedure" -- after findings that he makes -- and
7 incidentally before I go further, I know this from
8 discussions with Dr. Poindexter; I know it from
9 Stuart Shaw. Dr. Poindexter would not render an
10 opinion in this case unless he examined every physical
11 report, every cardiogram, every record. I don't
12 know if we got a bill -- well, you got a bill from
13 Dr. Poindexter. He told me he spent three hours
14 examining records, took his own electro-cardiograms
15 and he uses this type of language "I think a trial
16 procedure would be extremely dangerous and might
17 easily" -- and he says might easily, the word
18 "easily", the word that really impressed me here --
19 "result in the patient dying suddenly while he was
20 being examined, in the courtroom. I therefore
21 strongly advise his not appearing in court."

22 Now, because I was ill, I did not read the
23 cases and I did not do the research, and I'm still on
24 a four hour a day diet which I hope increases to
25 five next week and then normality; but the case as

1 reported to me by Stuart Shaw -- and I did have
2 something, editing some portion of the brief, clearly
3 indicates in this circuit, that based upon the
4 medical reports before your Honor, that in your
5 Honor's discretion I would even use the daring
6 language "must grant" the very least here a contin-
7 uance or a medical severance.

8 Now, since 1974, he has been receiving
9 unemployment insurance. He had not worked. I don't
10 know whether my record indicates this. Certainly
11 my -- I find nothing in my petition to indicate he
12 had been collecting unemployment insurance. This is
13 not a lawyer coming into this case and talking about --
14 making such a brainstorm motion on the eve --

15 THE COURT: Are you entitled to collect
16 unemployment insurance when you are medically unable
17 to work?

18 MR. ZOLOTO: Are you collecting unemployment
19 insurance?

20 DEPENDANT NATE KEVELSON: Yes.

21 THE COURT: I thought the law was you had to
22 be in the labor market.

23 MR. ZOLOTO: I don't know how he's collecting.
24 He's an employee of a corporation, even though he's
25 an officer.

1 THE COURT: My impression is , that's the
2 law, if you are not in the labor market you cannot
3 collect unemployment insurance; maybe disability
4 insurance.

5 MR. ZOLOTO: I make the point to show that
6 since 1974 --

7 THE COURT: It doesn't help.

8 MR. ZOLOTO: He has not been on the record --

9 THE COURT: It doesn't indicate. It
10 indicates that he's in the market, the employment
11 market; I may be wrong.

12 MR. ZOLOTO: I don't know what indications
13 that possibly could be, what the doctors say, I don't
14 know what type of employment market he can be on.

15 THE COURT: It doesn't help your case.

16 MR. ZOLOTO: I'm making that statement to show
17 that he probably hadn't worked since 1974, July 1974.
18 The cases and the standards set down -- I think I
19 made a brief statement, and based on that I would
20 rest.

21 THE COURT: The Government have anything to
22 say?

23 MR. CADEN: Yes, I do. Basically, the initial
24 position is neither Dr. Rosenberg's letter or the
25 letter received from Dr. Dack indicates the defendant

1 is unable physically to stand trial. They do indicate
2 that he has a heart condition which is conceded, and
3 they do not indicate in either of those two letters,
4 that he's physically, mentally, emotionally unable to
5 stand trial. As far as Dr. Poindexter is concerned,
6 my only observation with regard to Dr. Poindexter is
7 that he has indicated that, in his findings, that the
8 danger which is created and he renders an opinion
9 that might easily result in the patient dying
10 suddenly, is based on the assumption there is going
11 to be strenuous exertion by the defendant as well as
12 some emotional distress. I know this Court is very
13 familiar with the problem since it's had the problem
14 many times before. I know in these cases, we usually
15 work five, six hours a day. The defendant would be
16 in a position that he is now, sitting in a chair.
17 We would have a break in the morning and afternoon
18 session. We would have emergency medical care here;
19 we would have a doctor and a nurse, I could assure
20 the Court of that; and when the doctor indicates
21 that the basis of his findings is that defendant --
22 his opinion he might die suddenly is predicated on
23 the fact that he would be subject to strenuous
24 physical exertion, I don't know whether the doctor --
25 I'm not being disrespectful to Dr. Poindexter, I

1 know he's an able doctor. THis is a trial. It's
2 not a gym. As far as emotional stress, I don't
3 doubt that Mr. Kevelson has had physical emotional
4 stress since 1974. I think his emotional stress hasn't
5 decreased or increased since that time, and the idea
6 of coming before the Court and a jury of twelve to
7 determine whether he is guilty of the crimes charged --
8 I submit that these affidavits, especially from Dr.
9 Rosenberg and Dr. Dack are insufficient in terms of
10 the conclusions that they offer, and I most respect-
11 fully say that Dr. Poindexter's concept of the trial --
12 that is foreign to me; and that's all I have to say.

13 MR. ZOLOTO: Let's see what Dr. Rosenberg
14 says: "Exhibit C. In my opinion there has been a
15 steady downward course in this patient, in that he
16 has had increased angina with much less exertion
17 than previously. He is extremely emotional and
18 tense individual. It is my opinion after observing
19 this man, that his having to stand trial would add a
20 tremendous amount of stress to his condition, and
21 could result in more severe coronary disease and
22 coronary insufficiency.

23 It is possible that he may not be able to
24 survive the ordeal of a long courtroom trial."
25

1 Now, let's get to Dr. Dack. You say none of
2 the doctors say it. Exhibit E, Dr. Dack.

3 MR. CADEN: I'm sorry, Exhibit E.

4 MR. ZOLOTO: "There was clinical evidence of
5 arteriosclerotic heart disease." -- next page, "he
6 informed me that he has a trial pending in the
7 Federal Court in January 1976 and it would be my
8 opinion that such a trial would result in considerable
9 aggravation of his angina, and that he would run
10 into the danger of precipitating coronary insufficiency
11 or myocardial ischemia."

12 Now, you have Dr. Charles Poindexter, he
13 reviewed every record, he took the electrocardiogram.
14 We gave you every record.

15 THE COURT: Take it easy. We are all just
16 sitting around the table. I'm advising you medically.

17 MR. ZOLOTO: Dr. Rosenberg and Dack -- I say
18 this very cockerly -- if that's an improper term or
19 improper word -- get a doctor, examine this man.
20 Many a time he carries around four to six bottles
21 with him. He takes one before he walks into my
22 office. I've only seen him about four or half a
23 dozen times; Stuart Shaw -- I was sick -- will tell
24 you of the experience with this man. I'm not a
25 doctor but I'll make a hearsay statement, he's never

1 heard this from me before, he won't live more than
2 two years under normal circumstances. Examine him,
3 that's what you should do. How could you say this
4 based on the statements that the doctor has made.
5 I have never seen such strong language as has been
6 used by the medical profession. I say that with
7 your discretion, you can sit down with him and --
8 and then, on the merits -- sometimes one can figure,
9 well, he's a dead duck. I said that in your office
10 the very first conference I had with you, and I'll
11 say it today, you really can't prove that Nate
12 Kevelson got one penny out of this thing. I'll tell
13 you in no uncertain terms, and I also said in your
14 office, what was so earth shattering with this man?
15 What's going to happen to Nat Kevelson in addition to
16 other things -- but that's not before your Honor now.

17 What's before your Honor is strictly the
18 medical severance with no contradiction. I have
19 nothing from the Government, and the Government
20 brings forth no evidence whatsoever to contradict the
21 findings of these doctors.

22 I say based upon that uncontraverted evidence
23 this Court should most respectfully grant this
24 motion. Mr. Kevelson is going to be 68 years old in
25 February.

1 MR. CADEN: May I interrupt? I'm on trial
2 in Judge Bramwell's court at 10:00, can someone tell
3 him where I am?

4 MR. ZOLOTO: The report of December 16, I
5 don't know what it would show -- treated by Dr.
6 Rosenberg.

7 As a lay person, what is going to happen to
8 a man who is going to be tried who is 68 years old
9 with a pacemaker.

10 THE COURT: When is the case scheduled for
11 trial?

12 MR. ZOLOTO: January 26th. I rushed and did
13 this the best I could.

14 THE COURT: I appreciate that. The papers are
15 very good and I've read them.

16 MR. ZOLOTO: I deem that a compliment from a
17 judge of your type. We did the best we could under
18 the circumstances.

19 THE COURT: I've considered the matter, I've
20 given it a great deal of consideration. On the papers
21 I'll deny the request.

22 The trial will be conducted for half days in
23 view of the condition of counsel and of the defendant.
24 The defendant at any time will be able to have a
25 recess. The defendant will be entitled to have in the

1 courtroom a nurse and doctor as required; the nurse
2 in the building will be alerted and have necessary
3 recusitation equipment. The Government will see
4 that that's done. We'll proceed as scheduled.

5 MR. SHAW: As an officer of the Court, I
6 should point out to your Honor that it is my under-
7 standing that Mr. Kevelson takes nitroglycerine pills
8 and during the course of this presentation to your
9 Honor I saw him take another one; and although your
10 Honor has made those half days in regard to the
11 testimony, Mr. Kevelson, might in the interest of
12 his health, it may have to be less than a half day.

13 THE COURT: We will certainly consider that.
14 I'll take that into account. We'll conduct the
15 trial in a way that will minimize the difficulties
16 as much as possible. Thank you very much. I hope
17 you feel better, Mr. Kevelson. Have a good year.

18 (Whereupon Court stood in recess in this
19 matter for the day.)
20

21 * * * *
22
23
24
25

Hyman D. Zetler
Attorney at Law

A 118

PLAZA 1-5200

600 Madison Avenue
New York, N.Y. 10022

December 29, 1975

Honorable Jack B. Weinstein
Justice, United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, N.Y. 11201

RE: United States of America v.
Al Kevelson and Nathan Kevelson

Dear Judge Weinstein:

On December 11, 1975, I moved before your Honor on behalf of the defendant, Nathan Kevelson, for a continuance or, in the alternative, for a medical severance based on the fact that the defendant, Nathan Kevelson, is medically unable to stand trial, and you rendered a decision on that date.

I then proceeded with providing copies of the minutes of the oral argument to Doctors Benjamin Rosenberg, Charles Poindexter and Simon Dack, who have previously rendered opinions in this matter concerning Mr. Nathan Kevelson's physical ability to stand trial.

I have received from Dr. Charles Poindexter and Dr. Benjamin Rosenberg letters assessing their conclusions after reading the minutes of the oral argument which I provided to the doctors. I am attempting to secure an additional letter from Dr. Simon Dack, and I have provided him with the minutes, but I have been advised that Dr. Dack is on vacation at the present time and will return on January 5, 1976.

I am enclosing herewith the letters that I have received from Drs. Rosenberg and Poindexter, which assess their conclusions based on the decision you reached on the motion date.

A 119 December 29, 1975

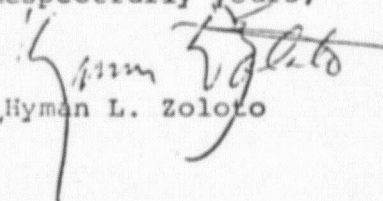
On the oral argument of the motion, I represented to the Court that Nathan Kevelson was going to be examined on December 16th by Dr. Rosenberg, who is his regular physician. I also stated that I would furnish a report of that examination to you, and to the Federal Attorney's office. This report I am also enclosing.

Since reading the minutes of the statements that I made with regard to the motion for a continuance and/or medical severance, it was called to my attention that both the defendant, Nathan Kevelson, and I were in error when the statement was made that Nathan Kevelson had made an application for unemployment insurance and received payments since July of 1974. This is incorrect. Nathan Kevelson has not collected, nor has he made any application for unemployment insurance, but has applied for and is receiving social security since July 1974, pursuant to social security claim #103-01-0489A. Further proof with respect to the incorrect statement made by me and the defendant with regard to unemployment insurance will be furnished to this Court since it is my intention to move expeditiously for this Court to reconsider the motion in view of the recent medical opinions on this subject.

I believe that it would be more expeditious for me to move for a reconsideration of this motion by hand-delivery of this letter to you and a copy to the Federal Attorney, together with the medical opinions received from Drs. Rosenberg and Poindexter.

I would, most respectfully, deeply appreciate for your Honor to advise me of a convenient date to be heard on this motion for reconsideration.

Respectfully yours,


Hyman L. Zoloto

Enclosures.

cc: Hon. David G. Trager,
United States Attorney for
the Eastern District of New York
Att: John Caden, Esq.
together with enclosures.

CHARLES A. POINDEXTER, M. D. A 120
101 EAST 60TH STREET - NEW YORK 22, N.Y.

TEMPLETON 8-5820

December 22, 1975

Hon. Judge Jack Weinstein
United States District Court
Eastern District of New York
Brooklyn, New York 11201

Dear Sir:

I have read your decision about appearing in the courtroom and the trial of Nathan Kevelson. Unfortunately, your decision to have a nurse and physician present is not as simple as anyone might imagine.

In the Coronary Care Unit of a hospital, we have not only a team of doctors and nurses, and special beds, but medical equipment which, within fifteen seconds, can be attached to a patient. The equipment is movable, but must be a very short distance from the patient because resuscitation of the heart requires never later than one minute, and seldom is successful unless it is done within thirty seconds. You do not have, nor is it possible to set up such equipment in a courtroom.

A patient of Mr. Kevelson's status, who does have an advanced narrowing of one or more coronary arteries, as judged from his history and from the fact that he has a pacemaker, would certainly indicate that his disease is advanced. I believe that just having a doctor and nurse in the courtroom would be of little or no help other than possibly to relieve pain. What usually happens is that the heart either stops completely or develops a very fast rate with the origin of beat in the ventricle, and then, in a few minutes, either goes into complete irregularity of the ventricular rhythm, or stops on its own. The modern methods

Dec. 22, 1975

of relief consist mainly in the use of electric shock by special machines which are hard to set up, and most often times must be used repeatedly before any success is obtained. In our Coronary Care Units, even with a team of specially trained doctors and nurses, who do nothing else but this kind of work, the mortality rate runs about twenty-five percent. No two people alone, for example a doctor and a nurse, could handle such devices, especially in an open courtroom, because the patient usually, at the same time, has repeated convulsions which require four or five strong men to physically control. I know of no doctor who would be willing to deliberately put himself in such a position. A nurse might be able, in certain instances, to run such a machine, but certainly would be lacking in the efficiency that a well-trained physician would have. I do not believe that any doctor would take on such a job because watching a person die with convulsive seizures is an extremely unpleasant experience, to say the least. I, personally, having been through this in the hospital, with all the modern equipment available, would never take on a case where such a situation might occur.

I have been in Cardiology since my last year in medical school. I have been called upon many times by the Court, where I have been a member of a special panel used by the Supreme Court for its impartial opinion. Unfortunately, every patient that I have told the Court should not be in a courtroom or at a trial, has been dead within a year, with the exception of one.

Knowing that anxiety and physical effort are two of the main causes of precipitating an attack and death, I can only say that such an occurrence, particularly in an open courtroom, or in any large gathering of people, is an extremely gruesome experience.

Sincerely,

Charles A. Poindexter
Charles A. Poindexter

BENJAMIN ROSENBERG, M. D., F.A.C.P.
RICHARD RUBIN, M. D.
ALEXANDER J. LAZAR, M. D.
P. C.

A 122

10 STRATFORD ROAD
BROOKLYN, N. Y. 11218
INGERSOLL 9-4600-1

December 22, 1975

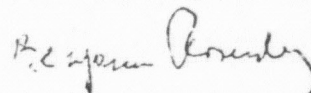
RE: NATHAN KEVELSON

TO WHOM THIS MAY CONCERN:

After reviewing the report of His Honor, Judge Jack Weinstein, I must, as a physician, take exception to what the judge has proposed. In a situation like this, the hope is that the client, Mr. N. Kevelson, shall not be brought to the point where he needs to be resuscitated. Effective emergency treatment, in a man whose illness is of this type, needs special equipment and the type of emergency treatment which would be very difficult in a court situation. The most serious complications which could occur in a man with angina pectoris, is an arrhythmia of the heart (ventricular fibrillation) which even his implanted pacemaker cannot successfully prevent. The equipment required in such a case would be a defibrillator, which would be difficult to use in court. Other emergency equipment would be necessary and is usually only available in the hospital or emergency room.

There is no doubt about the seriousness of this man's illness, and the serious effect that a prolonged trial could have on him. I do not believe that this can be disputed. In all fairness, it would behoove the court to call upon some other qualified physician, of their choice, to have another examination and to render a decision. In my opinion, it would be unfair to allow this man to face the ordeals of any type of court trial.

Yours very truly



BENJAMIN ROSENBERG, M.D.

BR/r

BENJAMIN ROSENBERG, M. D., F.A.C.P.
RICHARD RUBIN, M. D.
ALEXANDER J. LAZAR, M. D.
P. C.

10 STRATFORD ROAD
BROOKLYN, N. Y. 11218
INGERSOLL 9-4600-1

December 18, 1975

RE: NATHAN KEVELSON

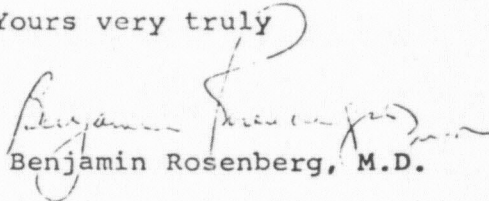
TO WHOM THIS MAY CONCERN:

I re-examined Mr. N. Kevelson on December 16, 1975. With the cold weather Mr. Kevelson finds a definite increase in his angina. His angina has increased more with walking, but does occur at rest.

Examination shows a blood pressure of 150/80 mm. The lungs showed a few scattered rales at the left lower lobe, posteriorly. The heart was enlarged to the left. The heart was paced at a rate of 72 per minute with intermittent irregular beats which may have come from the sinus. The abdomen was not remarkable. The liver edge was palpable. The extremities showed no edema. The patient complained of some pain in the left arm which was intermittent and associated, at times, with effort, and at other times with rest.

Mr. Kevelson's condition has deteriorated a little more than previously, in my opinion. His angina seems to be worse, in that it occurs at rest. I wish to reiterate that I do not believe the patient should stand trial because I believe that an ordeal in the court room could lead to a worsening of his condition, and even to a fatal demise.

Yours very truly


Benjamin Rosenberg, M.D.

BR/r

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X

4 UNITED STATES OF AMERICA, :

5 -against- :

6 AL KEVELSON and NATHAN KEVELSON, :

7 Defendants. :

8 -----X

74-CR-370

9
10 United States Courthouse
11 Brooklyn, New York

12 January 9, 1976
13 10:30 o'clock A.M.

14 B e f o r e :

15 HONORABLE JACK WEINSTEIN, U.S.D.J.
16
17
18
19
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21
22

23 ILENE GINSBERG
24 OFFICIAL COURT REPORTER
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Appearances:

DAVID G. TRAGER, ESQ.
United States Attorney
for the Eastern District of New York

BY: JOHN CADEN, ESQ.
Assistant U.S. Attorney

HYMAN L. ZOLOTO, ESQ.
600 Madison Avenue
New York City, New York

Attorney for Defendant Nathan Kevelson

A 126
THE CLERK: Criminal Cause for Reargument,

U.S.A. v Al Revelson and Nathan Revelson.

THE COURT: We haven't set a date of trial here,
have we?

MR. CADEN: Yes, we have -- January 26, with
the exhibits to be marked on January 19th.

THE COURT: What are we here for this morning?

MR. ZOLOTO: This is a motion. As I understand
it from my office, there is a letter for a motion
to reargue which was submitted to your Honor.

THE COURT: Glad to hear you anytime. It is
a pleasure to see you. I just wanted to know why
I am seeing you this morning.

MR. ZOLOTO: You too. It's a pleasure.

I don't have any ill motives. You are an able
judge and a good lawyer and I'm going to refer to
that in my argument. Always a pleasure.

Well, I am going to take it for granted that
your Honor is well aware of what happened on December
11th in the argument and with the exhibits and in
addition thereto, is well aware of the letter that
was sent to your Honor on December 29.

THE COURT: Yes, I did see it. I think I
endorsed that letter.

MR. ZOLOTO: It would be important for you

1 to have it az I will refer to certain things that
2 were said and written and my explanations.

3 THE COURT: Is that it?

4 (Document handed to defense counsel.)

5 MR. ZOLOTG: Yes. That should be the letter
6 in which I expressed a deep appreciation if you would
7 afford me an opportunity to be reheard as to your
8 decision on December 11th.

9 I ordered a copy of the minutes and I have
10 them and if I refer to minutes and say anything what-
11 soever not in accord with anybody's recollection I
12 will give you the page number and read it, should
13 anybody desire.

14 One thing I haven't mastered in all the time I
15 have practised law is that when I order the minutes,
16 should I order a copy for the Court and I didn't know
17 whether or not I should.

18 Now, in my letter I tell you that I made an
19 error so that the defendant when you asked him --
20 it's page 14 --

21 THE COURT: Yes. I remember the event very
22 well.

23 MR. ZOLOTG: The question of the unemployment
24 insurance.

25 THE COURT: Yes.

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1 MR. ZOLOTO: I have here -- and I don't get
2 to see Mr. Kevelson often -- I have great difficulty
3 in preparing him and I told him to bring this morning
4 to Court so that maybe my papers are loosely presented
5 without the exhibit -- I will do whatever your Honor
6 directs me to do -- I told him not to cash the last
7 check he received and I have two photostatic copies
8 of the check.

9 THE COURT: Mark it in evidence at this hearing,
10 please.

11 MR. ZOLOTO: The check is clearly one for
12 Social Security for the month of December and I also
13 represent to this Court on behalf of the defendant --

14 THE CLERK: Court Exhibit 1 in evidence.

15 (So marked.)

16 MR. ZOLOTO: (Continuing) He has represented
17 to me that it is these checks that he received.

18 Now, in my petition and an affidavit from
19 Stuart Shaw which were part of the papers before your
20 Honor, we say we cannot prepare this man for trial.

21 Stuart Shaw took over when I was in the
22 hospital --

23 THE COURT: How are you feeling now? Feeling
24 better?

25 MR. ZOLOTO: I feel great. People tell me I

1 look great. But these cardiologists, maybe they
2 don't think the way I think or should think. They
3 sort of keep me down and tell me I'm not that well.

4 I have never felt as good as I feel and my
5 mind has never been as clear as it is. I feel so
6 able.

7 So, anyway, this is but a clear example of
8 what I want to point out to the Court.

9 I am ashamed of what I said when I came here
10 and you said to me, "How does it help you?" I said
11 that the reason I talked about the unemployment
12 insurance is that I believed it to be -- to show you
13 or show the Court evidentiary-wise that since July,
14 1974, this man has not worked. That was the purpose.

15 To me, it wouldn't have made any difference
16 for the purpose of the statement, whether he was
17 collecting unemployment insurance or social security.

18 However, without bragging about myself, if I
19 was coming in on a motion of this type, before
20 statements like that would be made by me -- or one
21 would have the right to assume that I would have at
22 least sat down and interviewed the client -- I could
23 never have made such a statement which I am ashamed of.

24 Now, Mr. Kvelson sat here, didn't say yes or
25 no to anything. It bothered me. When I got the

A 130
minutes it really bothered me.

So, from December 11 to now I met him once. I called him up and either one of his sons took him to my office and he said in fact, "I just got a check. Should I cash it?" I said, "Keep the original. Make photostats so when I come before the Court I will tell the Court."

Another thing, I said in my letter to you to reconsider your decision because I expect a report from Doctor Simon Dack in accordance with your decision and Mr. Shaw of my office took care of the details with respect to that.

I think it was the day before Christmas -- talking from memory -- that Stuart Shaw, who is in the building and when he gets through in his Part will meet me up here, delivered to Doctor Dack a copy of your decision and all the minutes together with Poindexter's letter and this other doctor's -- his name I forget -- Doctor Rosenberg's letter because we had then already received the letters from them.

Stuart Shaw informed me that Doctor Dack was on vacation or going on vacation the next day or was on vacation -- I don't really remember -- and I wrote you a letter and said he will be back from his vacation and return on January 5th and I had

1 every reason in the world to believe that I would
2 get a report from him.

3 Now, I know Doctor Dack very well. I know
4 him. I know him. He knows me. He was an honored
5 guest at a dinner in my honor, as a matter of fact.
6 He is an honored man but never had anything to do with
7 our office.

8 His letter is to Doctor Rosenberg. I called
9 him in. I said I wanted an expert cardiologist and
10 in my opinion there is none more qualified than Doctor
11 Poindexter who examined me and rendered his opinion.

12 I called Doctor Dack on January 5th. I didn't
13 get a report in my office. Got on the phone. He
14 called me, "Hy." He says, "Hy, there's a decision
15 I have made. I will never, in any Court case, any more
16 write a report or testify for nobody. I won't do it
17 for you."

18 I said, "Doc, you have a moral obligation to
19 do that. I am not asking you to concur, to agree or
20 disagree. All I am asking you is for the opinion.
21 We will pay you for your time. Send me the bill or
22 sent Kevelson the bill or send Doctor Rosenberg the
23 bill."

24 I told him that it is unfair that he should
25 do this.

1 I then said to him, on the phone, "Is there
2 anything that these doctors have said that you
3 disagree with?" He said, "No."

4 He then said -- first he gave me an argument
5 and said that this is going to lead to his testifying
6 in Court. I said, "I am not saying that to you now.
7 All I am requesting from you is a report. That is
8 all that is necessary. Write anything that you see
9 fit to write. Is there anything that you disagree
10 with?" He said, "No, but I am not getting involved
11 in any more cases with anybody including you."

12 Well, quite frankly I was shocked. I said,
13 "Doc, but you wrote a report. A judge rendered a
14 decision. Doctors tell me what the judge has decided
15 to do is wrong medically. That's what I want you to
16 respond to." He said, "I wrote a report to Judge
17 Weinstein. He knows how I stand. It is very clear.
18 That should be sufficient. There is no disagreement."

19 I do not intend to reiterate or specifically
20 go back as to what was said so that we will have a
21 long drawn out record but it is important for me to
22 again make clear Plaintiff's Exhibit E --

23 THE COURT: Defendant's, you mean.

24 MR. ZOLOTO: Pardon me. Defendant's Exhibit E.
25 I was in the hospital then.

1 This is dated October 17, 1975, written by
2 Doctor Dack to Doctor Benjamin Rosenberg.

3 I am going to stress three things. Firstly,
4 he says: There is clinical evidence of arterial
5 sclerosis particularly heart disease with considerable
6 cardiac enlargement, coronary insufficiency and
7 severe angina pectoris on mild stress. The patient
8 must continue to limit his physical activities and
9 to avoid all emotional stresses. He informed me that
10 he has a trial pending in the federal court in
11 January, 1976 -- he doesn't mention the date, he
12 mentions the month -- and it would be my opinion
13 that such a trial would result in considerable
14 aggravation of his angina and that he would run into
15 the danger of precipitating coronary insufficiency
16 or mild cardiac ischemia.

17 Now, that's clear. I went over that at the
18 last argument of the motion.

19 Now, Doctor Dack very temperamentally, to me
20 on the telephone, says, "I told him. I don't want
21 to get involved. I will not get involved. I have
22 9 appointments a day. I visit patients at the
23 hospital, I teach and I write. That's it. That's
24 enough. I will not do it, even for you."

25 There is no way that I know that I can force

1 him to do it and I have thought a lot about it because
2 the first reaction one gets is this is a phony or
3 something that he can't respond and I am stating
4 to this Court that I believe that if a judge called
5 a doctor and talked to the doctor he would be
6 apprised of the facts.

7 I also believe -- and I know this -- that
8 Simon Dack would not write what he wrote and that
9 doesn't mean to me that Mr. Kevelson can stand trial.

10 Simon Dack told me that he does not disagree
11 with whatever the doctors subsequently wrote which
12 letters were given to you and I find that my office --
13 I want to apologize -- it was a little sloppy -- we
14 didn't mark them as exhibits and just sent them with
15 the letters. That is the part-time problem I have.

16 THE COURT: I don't understand the nature of
17 the argument or why we need Dack. I agree those are
18 all eminent doctors and I accept what they say at
19 face value. There is no evidence submitted by the
20 Government to indicate the doctors are wrong. I
21 accept them. I don't need them here.

22 MR. ZOLOTO: You are not telling me you have
23 any evidence to the contrary --

24 THE COURT: I don't. The man is ill.

25 MR. ZOLOTO: I am going to say that you are a

1 very able judge and a good lawyer and you cannot
2 make such a finding.

3 THE COURT: I never found that he is not ill.
4 It is conceded by the Government that he is ill.

5 MR. ZOLOTO: But you cannot make such a finding
6 that he can stand trial.

7 Have him examined by any doctor --

8 THE COURT: I can see that he is an old man
9 and he is ill. I have seen old men.

10 He doesn't look well today.

11 How are you feeling?

12 THE DEFENDANT: I have pain.

13 THE COURT: He doesn't look well. He is
14 getting ill as you speak. The argument isn't helping
15 much.

16 Do you want to take a little break now?

17 THE DEFENDANT: I'd like to walk out.

18 THE COURT: Do you want to take a little
19 break?

20 MR. ZOLOTO: I don't want --

21 THE COURT: (Addressing court spectator.)
22 Are you here with Mr. Kevelson? Are you the other
23 defendant?

24 MR. ZOLOTO: No, he is not. He is a rabbi.
25 He has two sons that are rabbis --

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1 THE DEFENDANT: No, one.

2 THE COURT: What does this son do?

3 THE DEFENDANT: He works.

4 THE COURT: Well, we all work. What kind of
5 work does he do?

6 THE DEFENDANT: He is a salesman.

7 THE COURT: (Addressing court spectator.)
8 Take your father out and let him rest a bit. If he
9 wants to rest a bit, let him.

10 (Whereupon, defendant exited the courtroom.)

11 MR. ZOLOTO: I apologize if I do anything --

12 THE COURT: There's no question the man is ill.
13 He is 68. He has a heart condition and the doctors
14 are right -- a trial never hurts a judge but anybody
15 with a heart condition is going to be hurt and there
16 is a danger involved in these heart condition cases.
17 But, I must decide whether -- bearing in mind the
18 risks involved and the necessity of justice -- he is
19 to be tried --

20 MR. ZOLOTO: Without any other evidence?

21 THE COURT: I don't need the evidence because
22 I concede the accuracy of the statements in your
23 material. The Government isn't contesting it. I
24 assume the Government doesn't have it.

25 I can look and see the man is not a well man.

1 But, this is a policy decision I have to make. It
2 is a serious tax case. Most of it will be done on
3 the record. 95 per cent of this trial is going to
4 be a record trial, I take it. Is that so?

5 MR. CADEN: A good part of it.

6 MR. ZOLOTO: That would not be true if he was
7 physically able --

8 THE COURT: I --

9 MR. ZOLOTO: (Continuing) -- I say that to you
10 most respectfully.

11 THE COURT: I assume what you are saying is
12 true. I have no reason to doubt you. You are a very
13 eminent lawyer. But, I don't believe that the de-
14 fendant's condition will appreciably affect his
15 capacity to defend the case. If I did, I wouldn't
16 permit it to go to trial.

17 I will inform the jury that he is ill and there
18 are these problems and therefore he is not in a po-
19 sition to defend himself as vigorously, physically,
20 as he might otherwise and they can take into account
21 if he testifies.

22 Do you plan to put him on?

23 MR. ZOLOTO: How could he testify?

24 THE COURT: I am asking you. Do you plan to
25 put him on?

1 MR. ZOLOTO: How can I in view of what the
2 doctors say?

3 THE COURT: Well, I will tell them, in fairness
4 to you and him, in addition to the incrimination
5 charge, of his illness. I will do whatever I can to
6 assist you -- because I know you have a physical
7 problem -- and assist him.

8 MR. ZOLOTO: I don't believe I have a physcial
9 problem. I feel good.

10 THE COURT: I am happy to hear that. But, if
11 you do have, I will be delighted to hear you on it.
12 I am not going to put off the case.

13 MR. ZOLOTO: So that I understand this, even
14 if an impartial physician said that Mr. Kevelson
15 should not go to trial --

16 THE COURT: He cannot say that. Only I can
17 say that. All he can tell me is what the danger and
18 what th e problems are. That's what a doctor is for.
19 I accept what you submitted as being accurate.

20 It may well be that this is such a strong case
21 that you want to take it up to the Court of Appeals
22 on mandamus.

23 The case is set for the 26th and I plan to go
24 ahead. I have no feeling about your doing that and
25 getting reversed. It is a question of law. My

1 opinion can be wrong. However, that is the way I
2 analyze it.

3 MR. ZOLOTO: I know that.

4 So I don't say this in bad taste to your Honor --
5 I become emotional about that -- I certainly do intend
6 to proceed and take this to the Court of Appeals
7 because I feel that based on the record and the facts,
8 the statements made by the doctors, a statement made
9 by me that has no provative value but I made that
10 statement upon which -- about what I heard orally --
11 he will not live -- doctors feel pretty sure he will
12 not live for more than two years if there is no trial
13 because he has got deterioration.

14 Doctor Poindexter says -- a member of the
15 Supreme Court panel -- he says in only one case was
16 he wrong where a patient lived a year whether he went
17 to trial or didn't go to trial which coincidentally
18 is the Bernstein case but he hasn't passed yet --

19 THE COURT: Well, I appreciate it.

20 If you are going to take this up in the Court
21 of Appeals move quickly because I am not staying the
22 case. I have a very serious calendar problem. We
23 are under a very strict speedy trial rule compelled
24 by the Court of Appeals.

25 I have jail cases. I am now trying the

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1 Chesimard case which was added to my calendar because
2 Chief Judge Mishler couldn't take the case. I cannot
3 juggle my calendar. That is why I am not giving you
4 a stay. If the calendar were different I would give
5 you a stay and give you more time to go up. If you
6 are going to proceed you have to do it forthwith.

7 MR. ZOLOTO: I am going to proceed forthwith.

8 THE COURT: Good.

9 MR. ZOLOTO: I am also saying to your Honor
10 that the only time that I will make an application
11 for a stay is if there is no decision by the Court
12 of Appeals. I am now saying to the Court stenographer --

13 THE COURT: I am telling you now I won't give
14 you a stay. You will have to make the application
15 in the Court of Appeals. The record should be clear
16 that I cannot adjust my calendar.

17 MR. ZOLOTO: I understand that clearly and
18 that is what John Caden and I were talking about outside.
19 I said to him, as I say to you, we will be ready to
20 pick up the minutes at the stenographer's earliest
21 possible convenience. We will forthwith prepare the
22 petition -- follow me -- to the Court of Appeals.

23 THE COURT: The quicker I get a decision the
24 better because if I am not trying your case I must
25 bring in another case and it is a very difficult thing.

1 MR. ZOLOTO: I am representing to you that
2 it will be taken care of forthwith.

3 THE COURT: Wonderful.

4 MR. ZOLOTO: If I don't get a decision from the
5 Court of Appeals and I do everything with reasonable
6 dispatch I will have to go the Court of Appeals and
7 get a stay.

8 THE COURT: Yes. You are not getting it from
9 me.

10 MR. ZOLOTO: I have never changed that position
11 with John Caden.

12 THE COURT: I think you have a clear record.

13 MR. ZOLOTO: Yes, and the issue is a simple one
14 for the Court to decide.

15 THE COURT: I have granted stays. I have put
16 off trials --

17 MR. ZOLOTO: No, no, no. I find no fault with
18 you.

19 THE COURT: In this case I am exercising my
20 judgment as best I can. It is always a difficult
21 decision for a trial judge to make because a defendant
22 may drop dead in the course of the trial or become
23 ill and then the judge has it on his conscience. But
24 I cannot help making difficult decisions. I have
25 had defendants collapse in Court. Fortunately, we

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1 have never had any serious illness during the course
2 of the trial and I hope that will continue. But, I
3 cannot, in order to protect my emotional health, put
4 off trials whenever there is a risk. That is a risk
5 we have to take.

6 Take care of your own health. That's the main
7 thing.

8 MR. ZOLOTO: I find no fault. I only disagree --

9 THE COURT: With my finding. I understand.
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December 29, 1975

C Hon. David G. Trager
United States Attorney
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

O Attention: John L. Caden
Assistant United States Attorney

Re: United States v. Al Kevelson
74 CR 370 - LLJY

P Dear Mr. Trager:

Y As I telephonically advised Assistant United States Attorney John L. Caden this date, pursuant to discussions with my client, Mr. Al Kevelson, the above entitled action will be disposed of pursuant to a plea of Guilty to the major count of this indictment or such other count as may be appropriate, on the date heretofore set for trial, i.e., January 26, 1976, before the Honorable Jack B. Weinstein.

Should there be any questions concerning this matter, please do not hesitate to communicate directly with the undersigned at your earliest possible convenience.

Very truly yours,

RBG/eb

cc to: Hon. Jack B. Weinstein
United States District Judge
United States Courthouse
225 Cadman Plaza East
Brooklyn, New York 11201

Raymond Bernhard Grunewald

File & Perlast
RM